

INTERNATIONAL CONSUMER FRAUD: CAN
CONSUMERS BE PROTECTED?

Y 4. G 74/9: S. HRG. 103-590

International Consumer Fraud: Can C... **BRING**

BEFORE THE

SUBCOMMITTEE ON REGULATION AND
GOVERNMENT INFORMATION

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

OCTOBER 15, 1993

Printed for the use of the Committee on Governmental Affairs

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CONGRESSIONAL RECORDS



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FRIDAY, OCTOBER 15, 1993

U.S. SENATE,
SUBCOMMITTEE ON REGULATION AND
GOVERNMENT INFORMATION
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:38 a.m., in room 342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Subcommittee, presiding.

Present: Senators Lieberman, Levin, and Cohen.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Good morning, and thank you all for joining us this morning.

Our Subcommittee today examines an old problem, which is swindlers, but this one has a new international twist. The swindlers that we are going to be looking at today operate out of Canada and prey over the phone on citizens of the United States. Our subject is the growing problem of international telemarketing fraud.

Just about when you think you have heard it all, something like this comes along and shows you that you haven't.

There is a basic theme that runs through all consumer fraud, and the scams you hear about today aren't that different from hundreds of other such cons that have been run on people throughout the ages. Nor, unfortunately, are the sums of money any smaller. Collectively, the victims in these scams have lost millions of dollars.

But what is different, of course, is that these scams that we are discussing today are conducted across international borders. With modern technology, these swindlers can pick your pocket in your own home while they are sitting in another country, out of the reach of American law enforcement. They can pick their victims and spread them across the United States with two results.

The first is that by spreading their targets, they reduce the pressure in any jurisdiction to induce local law enforcement action.

Secondly, the difficulties of international enforcement give these swindlers plenty of time to operate their scam, dupe their victims, and then move on. Most confidence games, as we know over the ages, operate just ahead of the law. By operating internationally, these con artists buy significantly more time and, consequently, sting more victims.

This morning we are going to hear from Ms. Jinna Anderson, who is from Guilford, Connecticut. She and her husband made what they thought was a good investment, one that would earn them more than 2 to 4 percent than most of the banks are offering today. They bought what they thought were strategic metals which would increase in value. In fact, they paid \$300 to \$400 an ounce for a metal that is actually worth \$11 to \$12 an ounce.

The con artists had colorful brochures, business cards, laminated assay reports, the works. These are a couple of the brochures that the Andersons received. Over there, you can see a certificate of analysis of germanium, which is highly official looking. This is actually a sample, 2 troy ounces of the commodity.

They were all armed, as you can see, these salespeople, with the trappings of a legitimate business. Over the phone, they quoted prices, research results, and market forces like trained economists, but, of course, what they were really trained in was fraud.

To illustrate, we are going to play a tape.

[A tape was played.]

Telemarketer. Let me put it this way, Christine. I want to be honest with you, and I want to share this with you and I want to also share this that you can share it with your husband.

Senator LIEBERMAN. This is one of the salesmen.

Telemarketer. I am not in the market to hurt you in any way, shape, or form. You are dealing with a company that has been in business since 1962. You saw where we come from when you asked me about David, and I took care of the problem immediately.

Christine. Yes, you did.

Telemarketer. The same problem, the same way, as soon as you and your husband want to get out of the market, you have made enough money, you feel that your investment is showing a nice promise, I want to get you out of the market. I don't make no money, Christine, until I sell your indium.

Christine. OK.

Telemarketer. Unfortunately, David got out a little too early. I wanted him to stay a little bit longer. You shared that he was of age, that it was an investment for him.

Christine. Yes.

Telemarketer. I didn't argue with you in one little bit.

Christine. Right.

Telemarketer. I want you to come along with us. I want to try to make you some money, which I know I can do. If I have got you as a client and I am going to make you money in this market, I know when our new metal comes out in January—we are working on a metal called Micro-Ores, it is a computer metal that is put into software—I can only make you money, Christine. I have had clients on board with me for 15 years. I have clients that are holding 1,500 and 2,000 ounces of indium. Now you can imagine what their portfolios are tied up with.

Christine. Yes.

Telemarketer. And Christine, they have been with me for years. I have never let my clients down. I work on their behalf because I only charge commission one time only on sell, not on buy. So at that point in time, I have to work for you.

Christine. Is there any chance that we can lose our money?

Telemarketer. Christine, none in the least, reason being I had a 30-ounce position frozen for you at \$71.30.

Christine. Right.

Telemarketer. The market opened at \$52.80 when indium first came out.

Christine. Yes.

Telemarketer. If I have ever felt that it would go below \$71.30, I would take you out of the market before that would happen. That is why a lot of our clients stay with us, because your bottom price is \$71.30, Christine, not lower. Do you know what I am saying? In other words, if the downside ever came that it sells for \$71.30, I would have you out of the market before you lost money.

Christine. OK.

Telemarketer. So better than that, I cannot do, Christine. And I have shown you my true colors, I have shown you where I come from, where our company has been in business, where——

[The playing of the tape was concluded.]

Senator LIEBERMAN. That was a tape made by the Securities Division of the Maine State Government, in some excellent investigative work that did lead to at least one person receiving money back.

What struck me as I listened to the tape, and I imagine it struck you, too, that we are dealing here not with a small-time telephone bank operator reading a script. This character is a pretty sophisticated international salesman, and in his own way, he is a throwback to the old snake oil of an earlier, less high-tech age.

Today, we are seeing this problem coming from Canada and the Cayman Islands into the United States, but obviously as the quality of phone service improves and international phone rates fall, these cons are going to operate from further away, making law enforcement even harder.

Clearly, there is a need for international discussion and hopefully action regarding this problem. I can tell you that when State officials sat down together a couple of years ago to discuss the problem of stopping interstate telephone marketing fraud, it became apparent that everyone's interest was served by interstate cooperation, and I think the same will happen with international discussion as well.

The answers are not going to be easy or obvious, but clearly, we have to begin the process of developing those answers before too many more people lose too much more money to these international telemarketing con artists.

Our witnesses this morning will help us shed a lot more light on the problem and what we can do about it.

Our first panel is composed of Jinna Anderson and John Barker. Ms. Anderson, as I mentioned, is a consumer and will tell us of her experience with Whitehall Metals Group, Inc., operating out of Canada. Mr. Barker, who is with the National Fraud Information Center, will discuss the range of these international telemarketing scams.

Our second panel consists of the Federal Government agencies which have the responsibility for dealing with this problem, and I particularly appreciate the spirit with which these agencies come to us today. We are here to discuss the problem and explore possible solutions. We don't expect a final plan of action today. But

what I hope we will do is begin the exposure of the problem to protect other consumers who may hear about this hearing and to develop the dialogue that will, in fact, develop a plan that will fight back against this latest form of consumer rip-off.

PREPARED STATEMENT OF SENATOR LIEBERMAN

Good morning, and thank you for joining us this morning. The Subcommittee today examines an old problem—swindlers—but with a new twist. The swindlers we are looking at today operate out of Canada and prey over the phone on citizens in the U.S. Our subject is the growing problem of international telemarketing fraud.

There is a basic theme that runs through all consumer fraud, and the scams you hear about today aren't that different from hundreds of other such cons run on people through the ages. Nor, unfortunately, are the sums of money any smaller. Collectively, the victims in these scams have lost millions of dollars. Two years ago I held a hearing on advance fee loan scams. There too, the losses were in the millions.

What is different in the scams we are discussing today is the problems created by an international border. With modern technology, these swindlers can pick your pocket in your own home while sitting in another country, out of the reach of U.S. law enforcement. They can pick their victims across the entire U.S. The result is two fold. First, by spreading their targets there is little pressure in any one jurisdiction to induce the local enforcement community into action. Second, the difficulties of international enforcement gives these swindlers plenty of time to operate their scam, dupe their victims and move on. Most confidence games operate just ahead of the law. By operating internationally, these rip-off artists buy significantly more time, and consequently sting more victims.

This morning we are going to hear from Ms. Jinna Anderson. She and her husband made what they thought was a good investment—one that would earn them more than the 2 to 4 percent the banks are offering today. They bought what they thought were strategic metals which would increase in value. In fact, they paid \$300 to \$400 an ounce for a metal worth \$11 to \$12 an ounce.

These con artists had color brochures, business cards, laminated assay reports, the works. Here are a couple of the glossy brochures Ms. Anderson received. And this is a very official looking certificate of test results. And blown up over here is a copy of an invoice Ms. Anderson received from the con-men.

They were well armed with all the trappings of a legitimate business. Over the phone they quoted prices, research results, and market forces like a trained economist. What they are really trained in is fraud.

I would like to play for you a recording made by the Maine Securities Division. Ms. Sandra Sammartano and Mr. Steve Diamond, the Maine Securities Administrator, were able to get one Maine resident his money back from these swindlers operating from Toronto, Canada. In the process they made these tapes. It is worth noting the effectiveness with which they make their pitch, and the effort they put into convincing you that this is an honest transaction. These are not small-time phone bakers reading a script. They are very sophisticated international snake-oil salesmen.

Today we are seeing this problem coming from Canada and the Cayman Islands. As the quality of phone connections improves, and international phone rates fall, these cons will be able to operate from farther away. That physical distance will make enforcement even harder. As the European Community breaks down trade barriers and improves their international infrastructure they will become lucrative targets for these scam artists. Similarly, as the emerging Eastern Europe countries develop their infrastructure, their new entrepreneurial spirit will be a prime target for this kind of swindle.

Clearly there is a need for international discussion and action regarding this problem. When state officials sat down together a couple of years ago to discuss the problem of stopping scams operating from one state but targeting another, it became apparent that everyone's interest was best served by interstate cooperation against these charlatans.

I do not intend to suggest that the solutions for this international problem are either obvious or easy. But we must begin the process of developing the international cooperation necessary to stop these thieves. We are fortunate to be addressing this today when the problem is limited to a few countries. If we are slow to react there will be dozens of countries involved, and significantly greater barriers to such agreements. That is what the crooks are counting on, and we must not let them succeed.

Our witnesses this morning are going to help shed further light on this problem and what can be done about it.

Our first panel is Jinna Anderson and John Barker. Ms. Anderson will tell us of her experience with Whitehall Metals Group Inc., and Mr. Barker, from the National Fraud Information Center, will discuss the range of these international telemarketing scams.

Our second panel consists of the Federal Government agencies who bear the responsibility for dealing with this problem—the Department of Justice, the Federal Trade Commission, the Federal Bureau of Investigation, and the Secret Service. I particularly appreciate the spirit with which these agencies join us today. We are here today to discuss the problem and explore possible solutions. No one expects a final plan of action today. But what we can do today is begin the dialogue that will develop that answer.

TELEPHONE SALES PITCH TRANSCRIPT

Telemarketer: Let's put it this way, Christine. I want to be honest with you, and I want to share this with you, and I want to also share this so that you can share it with your husband. I'm not in the market to hurt you in any way, shape, or form. You are dealing with a company that has been in business since 1962. You saw where we come from when you asked me about David. And I took care of the problem immediately.

Christine: Yes. Yes you did.

Telemarketer: The same problem, the same way as soon as you and your husband want to get out of the market. You've made enough money. You feel that your investment is showing a nice promise. I want to get you out of the market. I don't make no money, Christine, until I sell you Indium. Unfortunately, David got out a little too early. I wanted him to stay a little bit longer. You shared that he was of age that it was an investment for him. I didn't argue with you one little bit. I want you to come along with us. I want to try to make you some money which I know I can do. If I've got you as a client and I'm going to make you money in this market, I know when our new metal comes out in January—we're working on a metal called Micro-Ores. It's a computer metal. It's put into software. And I can only make you money, Christine. I've had clients on board for 15 years. I've got clients that are holding 1500 and 2000 ounces of Indium. Now, you can imagine what their portfolios are tied up with. And, Christine, they've been with me for years. I've never let my clients down. I work on their behalf because I only charge commission one time only on sell not on buy. So at that point in time I have to work for you.

Christine: Is there any chance that we can lose our money?

Telemarketer: Christine, none in the least. The reason being I had a 30 ounce position frozen for you at \$71.30.

Christine: Right.

Telemarketer: The market opened at \$52.80 when Indium first came out. If I have ever felt that it would go below \$71.30, I would take you out of the market before that would happen. That's why a lot of our clients stay with us. Because your bottom price is \$71.30, Christine, not lower. You know what I'm saying? In other words, if the down side ever came that it fell to \$71.30.

Christine: Right.

Telemarketer: I'd have you out of the market before you lost money.

Christine: OK.

Telemarketer: So, better than that I can not do, Christine. And I've showed you my true colors. I've showed you where I come from . . . where our company's been in business.

Senator LIEBERMAN. I am delighted to be joined by two of my colleagues today and I yield now to Senator Cohen of Maine.

OPENING STATEMENT OF SENATOR COHEN

Senator COHEN. Thank you very much, Mr. Chairman. I am pleased that you have called this hearing. I want to commend your staff for the work that they have done in preparing for the hearing.

I point out that the Senate Special Committee on Aging has also been investigating a similar type of consumer fraud that has been targeting the elderly.

You indicated that there is a lot of money involved. As a matter of fact, the FBI estimates that telemarketing fraud costs our citi-

zens approximately \$40 billion a year, so we are talking some fairly significant amounts.

I think we are seeing day after day the kind of creative outrageous tactics that swindlers use to rob senior citizens. As a matter of fact, one of our witnesses at the Aging Committee fraud hearings, I think he was paraphrasing the poet Dante, said there should be a special place in hell for those who victimize the elderly.

We heard some very compelling testimony from elderly victims who found themselves dealing with con artists who engaged in prize giveaway schemes, some of which involved these international boiler room operations which dupe the consumers into purchasing merchandise or paying for the so-called handling fees and then promise that they are going to send substantial sums of cash awards and other valuable prizes. The prizes never arrive, and, of course, the money has long since evaporated.

As you have indicated, Mr. Chairman, these schemes are going international. We are going to hear this morning about one that involved a citizen from Maine. A Canadian telemarketer, and you have heard the transcript of the telephone sales pitch, contacted a man from Green Lake, Maine, just outside out of my hometown of Bangor. His name is David Hamilton and he is 73 years old.

He was advised to invest in indium. It was a metal that was hawked as being strategic in nature but was really little more than the kind of inexpensive metal that dentists use for their fillings. It was sold for \$1,368 for 20 ounces of metal. The actual value is \$110.

Fortunately, we have Steve Diamond, who is the Maine Securities Administrator, and is very well known in the field of securities regulation, and he was able to con this particular con artist into giving Mr. Hamilton his money back, but a lot of people aren't quite as successful.

As far as this particular operation, I think there are about \$250 million that have been bilked from U.S. citizens from all over North America, much as Mr. Hamilton was bilked.

Earlier this year, I introduced an Elderly Consumer Fraud Protection Act that would help protect senior citizens from consumer fraud, that would increase the penalties for fraud, require restitution to victims, increase prosecutorial resources in order to pursue these particular scams, and coordinate in a more efficient fashion Federal and State enforcement efforts. Many of these were already incorporated into a telemarketing fraud bill which passed the Senate this summer.

As you have indicated, it becomes much more difficult when we are dealing with the international level. Unless we have complete cooperation with the other country, unless there is something in the nature of a mutual legal assistance treaty, then we are at a great disadvantage in trying to seek to enforce our own laws, so we may have to look for additional revisions of our current telemarketing laws to reflect this.

I would like to close, Mr. Chairman, and suggest that the best thing that we can do is to take very strong, aggressive measures against these types of activities. On the Aging Committee, we put together some simple tips for investors, including: don't buy investments over the phone; demand a prospectus; do your homework on

the investment; check the broker's record; define your own investment objectives; don't give the broker complete control; and read all statements sent to you.

I would like a copy of the list of consumer tips as well as a bulletin prepared by the North American Securities Administration Association to be included.

Senator LIEBERMAN. They will be included in the record.¹

Senator COHEN. With that, I look forward to hearing from our witnesses and, again, commend you for giving exposure to the type of activities which result in such tremendous losses to our people.

Senator LIEBERMAN. Thank you, Senator Cohen.

Senator Levin?

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Senator Lieberman.

Paul Newman and Robert Redford were angels in that movie called "The Sting" compared to the rip-off artists who are the subject of today's hearing. At least Newman and Redford preyed on fellow gamblers and on fellow con artists, but the people who are defrauding the citizens of my home State of Michigan and Connecticut and Maine and other States are stealing money from well-intentioned, honest citizens who want to protect and enhance their hard-earned nest eggs. The work of these telemarketing defrauders couldn't be more repugnant.

My staff asked the National Fraud Information Center to give us a list of Michigan residents who had filed complaints concerning telemarketing fraud over the last year. We found that Michigan is second only to California in the number of complaints filed, and that the complaints have come from all over the State, from Petoskey to Detroit to Grand Rapids.

Ninety percent of the complaints, approximately, of telemarketing fraud in that survey are complaints against people in Canada. Only 10 percent of the complaints are domestic in origin.

Each one of them had lost money purchasing so-called precious gems or strategic metals from telemarketing companies which have reputable sounding names like Whitehall, Metal Groups, Royal Belgium Group, Commonwealth Trading Services, International Gem Consultants, Pan Asia Assets Management, and so forth.

Each of the stories is similar to the story of a retired woman in St. Clair Shores, Michigan. She had just received a refund from her income tax and she decided to invest it. Eurocan Metals of Toronto called this woman, convinced her to invest her tax refund of about \$1,000 in the purchase of germanium, a strategic metal that the chairman held up here, that this firm, Eurocan, said was going to be invaluable to automobiles in the future.

Eurocan convinced the woman that her purchase would increase in value, that her investment was a safe one. What she got in return, sent by Federal Express to avoid, I suspect, mail fraud charges if they use the U.S. Mail, was an almost worthless 1 inch by 5 inch brick of grey substance, not anywhere near \$1,000 in value. The woman to whom \$1,000 was a tremendous amount of

¹ These documents appear on page 65-69.

money spent many days and shed many tears lamenting that purchase.

Similar stories are told by a woman in Detroit whose husband was conned into spending \$100,000 for gemstones that were worth a small percentage of that amount; a middle-aged man in Kalamazoo, Michigan who lost close to \$30,000 buying so-called precious stones that were worth a pittance compared to what he paid; a man in Grand Rapids who lost over \$4,000 in a similar scheme. Attempts to recover those lost funds have been in vain, and complaints filed at the Federal Trade Commission have gone unanswered.

The salespeople, as we have heard, who operate out of these shops are very skilled at what they do. They sound legitimate, they sound earnest, they sound straight; but the end is almost always the same, large sums of money spent by earnest and unsuspecting citizens for items of little or no value. Savings are lost and dreams are destroyed.

These scams are on the increase, dramatically on the increase, because of the cross-border telephoning, telefaxing that we now see more and more of. But since they are located across the border, recovery is virtually impossible, and that is what today's hearing is principally about, trying to get the attention of law enforcement authorities and the government of Canada to help put an end to these schemes.

I want to thank you, Senator Lieberman, and your staff for all the work that you have put into this hearing and into this subject. We are going to do everything we can to help you and Senator Cohen and others to put an end to these schemes and to these con artists. The rip-offs have got to stop.

We are probably going to need the cooperation of Canada to end the Canadian part of this problem, but I do think we have a good neighbor there to the north and we can hopefully enlist Canada's support in ending this disgrace.

PREPARED STATEMENT OF SENATOR LEVIN

Mr. Chairman, Paul Newman and Robert Redford in the movie *The Sting* were angels compared to the rip-off artists who are the subject of this hearing today. At least Newman and Redford preyed on fellow gamblers and con artists. The people who are defrauding the citizens of Michigan, Connecticut and other States are stealing money from well-intentioned, honest citizens who want to protect and enhance their hard-earned nest eggs. The work of these telemarketing defrauders couldn't be more repugnant.

My staff asked the National Fraud Information Center to give us a list of Michigan residents who had filed complaints concerning telemarketing fraud over the past year. We found that Michigan is second only to California in the number of complaints filed and that the complaints have come from all over the state—from Petoskey to Grand Rapids to Detroit. And each one of them had lost money purchasing precious gems or strategic metals from telemarketing companies mostly operating out of Ontario, Canada. The firms have reputable-sounding names: Whitehall Metal Groups, Royal Belgium Group, Commonwealth Trading Services, International Gem Consultants, Pan Asia Assets Management. And each story is not dissimilar from that of a retired woman in St. Clair Shores, Michigan.

She had just received a refund from her income tax and had decided to invest it. Eurocan Metals of Toronto called this woman and convinced her to invest her tax refund of about \$1,000 in the purchase of germanium, a strategic metal that Eurocon said was going to be invaluable to the automobiles of the future. Eurocan convinced the woman that her purchase would increase in value and that her investment was a safe one. What she got in return—sent by Federal Express to avoid, I suspect, mail fraud charges if they used the U.S. mail—was an almost worthless

1-inch by 5-inch brick of a gray substance not anywhere near \$1,000 in value. The woman—to whom \$1,000 was a lot of money—spent days and shed many tears lamenting the purchase.

Similar stories are told by a woman in Detroit whose husband was conned into spending \$100,000 for gemstones worth a small percentage of that amount, a middle-aged man in Kalamazoo who lost close to \$30,000 buying precious stones worth a pittance compared to what he paid, and a man in Grand Rapids who lost over \$4,000 in a scheme to get him to sell precious stones he had previously purchased. Attempts to recover the lost funds have been in vain, and complaints filed at the FTC have gone unanswered.

We are told that the sales people who operate out of these Canadian shops are very skilled at what they do—that they sound so legitimate, so earnest, so straight. But the end is always the same—large sums of money spent by earnest and unsuspecting individuals for items of little or no value. Savings are lost and dreams are destroyed.

Since most of these operations are located across the border, recovery is virtually impossible, and that's what today's hearing is about—trying to get the attention of the law enforcement authorities and the government of Canada to help put an end to these schemes. I want to thank you, Senator Lieberman, for chairing these hearings, and I am happy to work with you on a law enforcement solution and to bring these schemes to the attention of the American public so people can be forearmed against these schemes by being forewarned.

Senator LIEBERMAN. Thank you, Senator Levin. Thanks for your support.

Senator LIEBERMAN. Ms. Anderson and Mr. Barker, why don't you come to the table. We look forward to your testimony now.

Ms. Anderson, do I understand that you have an opening statement that you would like to give, or would you rather I take you through some questions?

TESTIMONY OF JINNA ANDERSON,¹ GUILFORD, CT

Ms. ANDERSON. I believe people are reading my opening statements. My opening statement was in writing. I think you have covered it, and I am open for questions.

I would like to thank you for undertaking this hearing.

Senator LIEBERMAN. I am delighted and thank you for your willingness to come forward and describe the situation. Why don't you just tell the panel very briefly about yourself, who you are, where you live, what you do, and that type of material.

Ms. ANDERSON. I am from Connecticut, and as you know, Connecticut has been undergoing a recession. I am an electronics technical writer and I have basically been out of work for many years because I have not followed up in my market, so I have been doing other things.

We own a natural food store.

Senator LIEBERMAN. You and your husband?

Ms. ANDERSON. Correct. And the reason we wanted to make this investment, to take a second mortgage on our condominium so that that would free up some of our money to start a small business for myself and to assist our other business.

Senator LIEBERMAN. Tell me what the first contact was that you had with this company from Canada. Was it over the phone or through the mail?

Ms. ANDERSON. We received glossy brochures. The first one I threw away, and it came in the mail again and we took a look at it.

¹The prepared statement of Ms. Anderson appears on page 41.

Senator LIEBERMAN. Similar to this kind of material?

Ms. ANDERSON. That is the one, right.

Senator LIEBERMAN. Yes.

Ms. ANDERSON. And then we received some very smooth telephone calls that people did not sound at all like this individual. These people were more like they had already presupposed that they were our brokers, absolutely prepossessing in their presentation. If they had sounded like that, we would not have dealt with them.

Senator LIEBERMAN. Tell me what you mean. What did he sound like to you?

Ms. ANDERSON. They did not sound like hard-hammering salespeople. They were absolutely smooth. They were different.

Senator LIEBERMAN. And as you said, they made you feel like they were already your broker?

Ms. ANDERSON. Correct.

Senator LIEBERMAN. Just out of curiosity, do you know whether other people in your neighborhood received similar information through the mail?

Ms. ANDERSON. I know of no one at all, and we talked to a lot of people in the process of doing business. We have seen no other brochures come around. It is almost as if we were hand picked.

Senator LIEBERMAN. I was just going to ask, do you have any idea—

Ms. ANDERSON. It was almost as if we had been hand picked for this opportunity.

Senator LIEBERMAN. Do you have any idea of how your name was drawn?

Ms. ANDERSON. It could be totally random from data bases involving your position, your portfolio or whatever.

Senator LIEBERMAN. Yes. Guilford is a relatively high-income suburb of New Haven, Connecticut, and I was wondering whether they may be targeting people in areas of that kind or whether they received your name because you had sent for information about some other investment opportunities and they had bought the list.

Ms. ANDERSON. I don't think so. We haven't really been sending for any information at all.

Senator LIEBERMAN. OK.

Ms. ANDERSON. There was nothing in the mailing address that would tip it off as to where it was transmitted from.

Senator LIEBERMAN. Why don't you tell us about the content of the discussion now. What were you told when you had the first phone conversation?

Ms. ANDERSON. I am looking for papers, because there were some figures involved.¹

Senator LIEBERMAN. Yes.

Ms. ANDERSON. We were first contacted with the price, and it was a very conservative estimate. The person told us of the attributes of the metal and it was a very high-technology application. It is used as a coating, a thin-film coating on fiber optic lines.

Senator LIEBERMAN. What was the metal involved here?

¹ See page 70.

Ms. ANDERSON. Germanium.²

Senator LIEBERMAN. That was the germanium?

Ms. ANDERSON. It is called a dopant.

Senator LIEBERMAN. Yes.

Ms. ANDERSON. We spent more time looking into the metal. We found it fascinating. It seemed like a fascinating opportunity.

Senator LIEBERMAN. What did you do when you looked into it more?

Ms. ANDERSON. We did not do the right things. We did not check the company, we checked into the metal. We were totally frustrated because we could not find anyplace a reportage of the value of this metal.

Senator LIEBERMAN. So you did some background research on germanium generally?

Ms. ANDERSON. Itself, yes.

Senator LIEBERMAN. What did the caller, the salesperson, tell you about how that value was determined? Where was the exchange on which this was sold?

Ms. ANDERSON. I didn't take part in that part of the conversation.

Senator LIEBERMAN. Your husband did?

Ms. ANDERSON. Yes, that was part of the problem. We were told that it was a closed market in England.

Senator LIEBERMAN. In England?

Ms. ANDERSON. Yes, and that they had a seat on it as brokers. They didn't state what the title of the market was or any such thing.

Senator LIEBERMAN. And you made an attempt to find some reports from that market but were unsuccessful?

Ms. ANDERSON. Very unsuccessful.

Senator LIEBERMAN. OK. Why don't you just tell us, did you buy the germanium all in one purchase or was it a series of purchases?

Ms. ANDERSON. No, we started small, with a small investment of X-number of dollars, it was around \$1,500, and we were called back and told that the metal had gone up in price, that it signified that it was very strong and it was in demand, and would we like to buy more. It was done in such a convincing manner that we bought more.

Senator LIEBERMAN. And every time you made the purchase, they actually sent you the metal?

Ms. ANDERSON. They sent us the metal with an assay report. The fact that it was laminated didn't impress us, but we thought that it was more precious in weight per volume or value per volume of weight.

Senator LIEBERMAN. What was the total amount of your purchase from this company?

Ms. ANDERSON. I believe it is in my hard copy.

Senator LIEBERMAN. For the record, the indication is that the total purchase was over \$19,000.

When did you first come to understand that this was not for real?

²See page 71

Ms. ANDERSON. We received a letter of divestiture from the company, stating that they were getting rid of their retail accounts and they were specializing in wholesale accounts. We were unable to contact them, and we were unable to contact the brokerage firm that they mentioned in the letter as following up on their accounts, and that is when we began checking.

Senator LIEBERMAN. Did you ever talk to a regular commodities broker to ask if this germanium could be sold?

Ms. ANDERSON. It was too late by the time we did that. When we did that, they became aware that it was such a small commodity that they wouldn't even handle it, because apparently, the metal may be a bona fide commodity, but it is a much larger volume and it takes a lot more. I thought since it was a coating that it didn't take very much, therefore the preciousness of it.

Senator LIEBERMAN. Understood. In other words, you thought because a small amount of it was required for the coating, a small amount would be worth a lot?

Ms. ANDERSON. Yes.

Senator LIEBERMAN. And did you turn to any law enforcement authorities after you realized you had been taken?

Ms. ANDERSON. We filed a police report, we contacted, by telephone, the Mounted Police, who was doing the investigation, and various securities—I have a list of about seven people. I put my name on lists of people who had been defrauded. I didn't sent out any hard copy at that point.

Senator LIEBERMAN. Who was that list with?

Ms. ANDERSON. Excuse me?

Senator LIEBERMAN. What list was that?

Ms. ANDERSON. I didn't file a list, I made a list of people that I filed my complaint with by telephone.

Senator LIEBERMAN. OK.

Ms. ANDERSON. It was just a whole list.

Senator LIEBERMAN. I thank you. I think that covers the basic factual situation. Senator Cohen and I will come back for questions.

Senator LIEBERMAN. Mr. Barker, thank you for being here. Why don't you identify yourself for the record, tell us about your organization, and then tell us what you know about this program.

We are running late, so we would like to try to keep witnesses within a certain period of time. If you could do it, that would be great. Thank you.

Mr. BARKER. I will try to make it before the yellow light flashes.

Senator LIEBERMAN. Thank you.

TESTIMONY OF JOHN BARKER,¹ DIRECTOR, NATIONAL FRAUD INFORMATION CENTER

Mr. BARKER. Thank you very much, Mr. Chairman. My name is John Barker. I am Vice President of the National Consumers League and Director of its National Fraud Information Center. We want to thank you for giving us the opportunity to appear before your Subcommittee this morning.

¹ The prepared statement of Mr. Barker appears on page 50.

Today's hearing, Mr. Chairman, is a first step in a promising effort to marshal our national resources to combat international fraud. The National Consumers League believes it is important for the Congress to take an active role in this issue and to seek remedies to remove regulatory and jurisdictional impediments to effective enforcement of our fraud statutes.

Telemarketing, telecommunications, and investment fraud operating offshore and targeted to U.S. victims, individuals and corporations, present an emerging crisis in law enforcement. There is already a serious problem, it promises to grow to epidemic proportions, and there is little that is being done and perhaps can be done to combat it.

What makes matters worse, Mr. Chairman, is that the international con man has at his disposal a dazzling array of electronic wizardry and telemarketing wizardry that speeds payments across the globe in seconds but can also make it appear as if the sales call is coming from around the corner. The same wizardry can take a call coming from around the corner and make it appear to be coming from an investment house in Hong Kong.

Last year, Mr. Chairman, the National Consumers League established the National Fraud Information Center to serve as a clearinghouse for consumer fraud reports and to assist law enforcement and regulatory agencies in detecting and prosecuting fraud cases.

During the past few months, we have reported a dramatic increase in losses due to international fraud targeted at U.S. victims. Our current estimate of losses due to fraud emanating from Canada alone exceeds \$60 million per year.

Senator LIEBERMAN. That is six-oh million?

Mr. BARKER. Six-oh million, yes.

What we find particularly shocking about this figure is not only the dollar amount of losses, but more important, that it represents illegal proceeds going to no more than 10 or 12 telemarketing operations in and around the Toronto area.

These boiler rooms engaged in telephone sales of bogus gemstones and precious metals illustrate very clearly the nature of international fraud, the jurisdictional problems we face in prosecuting civil fraud cases involving foreign promotions targeted to U.S. victims, and the potential for even greater losses if we do not act promptly and expeditiously.

One of the principal scams directed at U.S. investors this past year has been the sale of supposedly rare strategic metals like indium and germanium. Although the metal has little intrinsic and no market value, Toronto firms market contracts selling for approximately \$40 per ounce and deliver indium in small paper-weight-size ingots to U.S. citizens. Investors are assured that their indium will at least double in value within 3 to 4 weeks. Victims are asked to send cash or money orders via private carrier or to wire funds directly into a Canadian bank account.

Private mail carriers and electronic funds transfers are two major new resources at the disposal of international fraud artists. Funds sent by private carrier in pursuit of a fraudulent activity do not necessarily violate the mail fraud statutes. They arrive the next day and are quickly transferred. Funds sent by bank transfer are deposited in foreign bank accounts instantly and are available

for transfer out of those accounts and into more secure accounts the same day.

What is indium? This is it, Mr. Chairman. Indium is a silvery metallic element used primarily as a plating for ball bearings. It is not rare, it is not strategic, and it is not particularly valuable. There is no market in indium as there is for gold, silver, or platinum and certain other precious metals. It is worth less than \$5 an ounce, probably good for a paperweight.

Our National Fraud Information Center began to process indium complaints in early February of this year, although it is apparent that Canadian dealers were operating at an earlier date. Since February, we have reported 257 complaints to the Federal Trade Commission, the FBI, and directly to Canadian authorities. Since our surveys indicate that fewer than 10 percent of victims report fraud losses to authorities, it can be assumed that there may be as many as 3,000 U.S. victims. We estimate losses in excess of \$25 million.

This indium scam is but one example of the type of investment fraud operating offshore or, in this case, north of the border and targeted at U.S. victims.

One of the most lucrative is the international gemstone racket. This scam also operated out of the Toronto area until very recently and shows signs of picking up again as authorities relax their vigilance. The gemstone victim is much like the indium victim, unschooled in gemology and therefore an easy mark for the fast-talking promoter.

The victim is sold a valuable gemstone at discount on the promise that it will increase dramatically in value if held 1 or 2 years. The gemstone is delivered to the victim in a plastic case with the warning that tampering will result in loss of resale privileges.

Here, Mr. Chairman, is the type of gemstone that is sold to U.S. investors. It is about the size and shape of an engorged tick and probably as valuable. [Laughter.]

The victim is urged to hold onto this gem until it increases in value. By the time the victim gets suspicious, the seller is out of business. The gem itself is virtually worthless, usually an industrial-grade stone or similar.

The National Fraud Information Center has reported 413 cases of gemstone fraud since last November, and total loss to American investors is more than \$35 million on these little engorged ticks.

Americans must understand that when foreign companies, governments, or individuals are involved, there is often little that the U.S. government can do to protect them. Little effort and less money has been earmarked for detection and apprehension of foreign nationals defrauding U.S. victims.

In many cases, U.S. enforcement authorities lack jurisdiction to investigate. The Canadian police, while friendly and cooperative, are not going to place high priority on investigating crimes which have no Canadian victims, violate no Canadian laws, and may not constitute extraditable criminal offenses. This is also true of law enforcement agencies in other countries.

Modern electronic financial networks, Mr. Chairman, make it child's play for con artists to complete transactions abroad. They no longer need private letter carriers if electronic funds transfer systems are available. With electronic transfer, the victim can wire

funds instantly to an investment firm in the Bahamas; and these funds, when received electronically, are immediately rewire to accounts in Canada or back to the United States.

A con artist operating in Algiers can contact a victim, arrange for and collect payment, and disappear into the Casbah in about an hour.

We must face facts, Mr. Chairman. When a U.S. citizen is bilked by someone operating offshore, the long arm of U.S. law can't always reach out and grab the culprit. With sophisticated telecommunications and electronics funds transfer at play, the U.S. victim may not even know he is being defrauded by someone operating outside the country. Today, you not only have to know with whom you are dealing but also where the deal is coming from.

In conclusion, Mr. Chairman, the National Consumers League would like to commend the Subcommittee for bringing this emerging problem to light. At a time when we are still consumed with the need to combat domestic fraud, it is difficult to turn our attention abroad, but we believe that the fraud artist is moving offshore. The technology and telecommunications make it possible, our current enforcement strategies make it desirable, and an uninformed consumer makes it extremely profitable.

Thank you very much, Mr. Chairman.

Senator LIEBERMAN. Thank you, Mr. Barker.

Let me ask a first round of questions, and we will run the clock on ourselves as well. First of all, just a few factual questions. Tell me a little bit about the cost of setting up a phone operation in Canada or in the Cayman Islands and calling into the U.S. There was a time when—I am beginning to feel like I am old—when we used to think calling outside of the country was pretty difficult and expensive. Can you talk about what is required to set one of these up?

Mr. BARKER. Canada is, as the slogan goes, friendly, familiar, foreign, and near. It is very easy to do so. They use 800 number lines in Canada. Most of the calls are made to a 416 area code, which sounds like our area codes. Particularly if you are dealing in Senator Levin's State or even in your State, Senator Cohen, where you are so near to Canada, it seems very routine to be dealing across the border.

So it is not expensive to set up these operations. The boiler rooms in Toronto, like Whitehall Metals Group, will have an upstairs in some office building, use a mail drop, and things like that. So we are talking about huge profits and very, very little overhead.

Senator LIEBERMAN. So the communication is really pretty easy across lines?

Mr. BARKER. Communication is very easy, and as I say, it is done most frequently with 800 numbers. The private letter carriers go to Toronto every day, so it is a very simple process.

Senator LIEBERMAN. In your work in this subject matter, do you find that any of these companies, such as Whitehall Metals, which you have talked about here today, are involved in legitimate business at all, or is this totally a scam?

Mr. BARKER. As Ms. Anderson would tell you, they would like to make you think that they are engaged in a legitimate business, but

as far as we can tell, the indium and gemstone businesses are totally fraudulent.

Senator LIEBERMAN. I take it from your testimony but I want to confirm it, to the best of your knowledge, they are not selling or calling in Canada, that is, to consumers in Canada?

Mr. BARKER. They deal primarily with U.S. victims. There have been some instances where the Canadian authorities have been able to put down these operations because of some violation of Canadian law, but they deal primarily with U.S. victims. That is where the money is, and that is where they can make their easiest mark and get away quite quickly.

Senator LIEBERMAN. So my point is, and your answer in response to it, and I will ask some of the law enforcement folks again on the second panel, this is a business set up in Canada focusing on the American market, maybe because there is more money here, although there is obviously a fair amount of money in Canada, too, but it sounds to me like there is a clear intent to set up an operation where they are beyond the easy reach of law enforcement authorities.

Mr. BARKER. That is correct, Mr. Chairman.

Senator LIEBERMAN. OK. Ms. Anderson, let me just go back to the consumer's point of view. These are personal questions, so if they are uncomfortable, just don't answer them. I take it that you had some extra cash that you were thinking about investing somewhere, that that is why you responded to these calls.

Ms. ANDERSON. We had some money that we were garnering for a second mortgage, and we wanted this money to work for us.

Senator LIEBERMAN. So in other words, you had taken a second mortgage and you were looking to invest the money?

Ms. ANDERSON. No, we were looking to make a second mortgage. This was our down payment for the second mortgage.

Senator LIEBERMAN. Oh, I see. OK. Let me ask you this, just because intuitively, I would guess that there is a readier market for this kind of scam in the U.S. today because of the inability to get a decent return from a conventional certificate of deposit or bank investment. Is that—

Ms. ANDERSON. I would say that even mutual funds are very slow.

Senator LIEBERMAN. Yes.

Ms. ANDERSON. It is all very slow, plus you are paying taxes all the while on what you hold.

Senator LIEBERMAN. Obviously, this is one of the reasons the economists tell us why the stock market continues to stay so high in spite of the uncertainty of the economy, because there is so much money out there looking for a place to go.

Is it fair to say that one of the reasons why you were responsive was that you were trying to build up this nest egg, if you will, and you didn't see the kind of traditional investment opportunity here that you might have looked for in an earlier time?

Ms. ANDERSON. We were becoming very frustrated with the traditional, and a lot of people are. The other problem has been that in Connecticut, there has been a loss of equity in real estate.

Senator LIEBERMAN. Right.

Ms. ANDERSON. We have gone backwards, and we are very concerned. Plus, it is difficult to make ends meet just on a day to day basis running a business, because people are not spending. We sell food, and people are not even buying much of that. It is not that we are selling impulse items. We are just noticing the economy is very, very slow in Connecticut.

Senator LIEBERMAN. That is a very important point, and, of course, widespread throughout the country, but particularly in New England, probably in California, where people's sense of their own wealth is down because the real estate has dropped.

So you were looking for a good investment, for a kind of hit, if you will, in that sense, and that made you more susceptible?

Ms. ANDERSON. We probably should have realized that this return on investment was in the realm of too good to be true, because let me tell you what it was. It was 10 percent over 2 months as opposed to 3 percent over 1 year, so that was \$1,000 in 2 months.

Senator LIEBERMAN. Right.

Ms. ANDERSON. But it wasn't really that too good to be true. It sounded very good.

Senator LIEBERMAN. Did you understand at the earlier points of the contact with Whitehall Metals that you were dealing with a company located in Canada?

Ms. ANDERSON. Absolutely. We had no idea there was a problem with that.

Senator LIEBERMAN. So you knew they were in Canada?

Ms. ANDERSON. We knew they were in Canada.

Senator LIEBERMAN. But you had no sense—

Ms. ANDERSON. We didn't think twice about it.

Senator LIEBERMAN. That is understandable.

Ms. ANDERSON. That is what is so dangerous. That is one of the most important points that you will be making here today, or we will be, I think.

Senator LIEBERMAN. So in that sense, they weren't deceiving you about where they were, it is just that you—

Ms. ANDERSON. Not in this case.

Senator LIEBERMAN. I suppose this is relevant to the NAFTA considerations, with all the economic business going back and forth, particularly with Canada, where you would think that it was pretty normal to be doing this and not think about the problem with law enforcement.

A final question along these lines, one of the things we have seen happening lately in the way people use their money is that there is a lot of money flowing abroad into foreign stock markets and exchange, again, as a way to get a better return. Was that at all part of your decision? Did you feel that you might have a better chance to make more money because you were going to be investing in what they described as a product traded on a British exchange?

Ms. ANDERSON. That figured heavily into it.

Senator LIEBERMAN. It did as well?

Ms. ANDERSON. Yes.

Senator LIEBERMAN. Again, I really appreciate your willingness to come forward because, as Mr. Barker said, in many of these cases, consumers who have been defrauded are embarrassed and don't want to do it. Your coming forward means that there are a

lot of other people who are not going to be taken, and I very much appreciate your doing that.

Senator Cohen?

Senator COHEN. Thank you very much.

Mr. Barker, you indicated that there are huge profits involved with little overhead. Is there little interest on the part of the governmental authorities in this type of fraud?

Mr. BARKER. I think that there is a lot of interest on the part of our authorities. I know when we first began discussions on the indium and gemstone problem with the Federal Trade Commission, the FBI here in the United States, and also with the Metropolitan Toronto Police and the Royal Canadian Mounted Police, there was a great deal of interest. There were meetings held here, and we, for instance, forwarded all complaints that we got directly to the Metropolitan Toronto Police so that they had these available.

There has been a tremendous amount of cooperation among all of the authorities involved. One does have the feeling, however, that there may be some jurisdictional impediments and lack of treaty authority to get involved in these actively.

The people who are operating abroad do so simply because it does frustrate American authorities in their efforts to track them down, particularly by avoiding violation of the Federal mail fraud statutes and perhaps other criminal statutes.

Also, I would ask this as a question—I don't know the answer—as to whether or not this kind of fraud would represent some kind of an extraditable criminal offense here in the United States.

Senator COHEN. Do you know whether we have a treaty with Canada?

Mr. BARKER. No, I don't. No, I don't, Senator.

Senator COHEN. We will ask future witnesses.

It would seem, Ms. Anderson, in line with the Chairman's questioning of you, that in bad economic times, there is a tendency to want to multiply one's return as quickly as possible, and therefore in recessionary times there is perhaps a greater opportunity for these types of artists to get access to people like yourself.

I suppose that it doesn't matter if it is good times or bad times. If you look at the 1980s, in which there were relatively "good" times, there was a lot of wild speculation even when the times were good. It seems that these particular scam artists can take advantage of people seeking to even double and triple their money in a short period of time when there is plenty of money available, and when there is a shortage, they also seem to profit as well. So there is really not a bad time for the scam artists to peddle their nefarious wares.

Mr. Barker, I don't know how you notify your consumers out there, what your marketing techniques are, but if someone says we have a way to double your money in 2 to 3 weeks, should that set off red lights and bells and whistles?

Mr. BARKER. All sorts of things like that. Also, I notice in Ms. Anderson's testimony she very frankly admitted that when they were contacted, they went to the dictionary and looked up germanium instead of going to a broker. Any time you are offered any kind of irresistible opportunity to make an investment, don't do it

over the phone. Always consult somebody who knows what he or she is doing. That is the first lesson.

That is what these guys try to keep you from doing—getting somebody's advice. You have to make the decision today because the price of indium of going up, up, and up, and if you don't get that money to us today, tomorrow we can't guarantee you that price.

Senator COHEN. Ms. Anderson, had you invested in other types of stocks or bonds or made other types of investments other than this?

Ms. ANDERSON. Solely real estate.

Senator COHEN. Totally real estate?

Ms. ANDERSON. Solely real estate.

Senator COHEN. You indicated that your husband was dealing on the phone on some aspects of the transaction and you on others?

Ms. ANDERSON. All transactions were conducted by my husband.

Senator COHEN. I gathered from your statement that you might have been more critical or scrutinizing in terms of—

Ms. ANDERSON. Absolutely should have been. You gather that I should have been or would have been?

Senator COHEN. I gathered from what you were saying that you might have been a bit more critical in terms of the—

Ms. ANDERSON. We have been very busy. I am afraid that it was just a breakdown in communications.

Senator COHEN. Ms. Anderson, I want to thank you for your testimony. As the Chairman has indicated, it is very difficult to have witnesses come forward. Many of these types of crimes go completely unreported.

We had in one of our Aging Committee hearings an example of one man who was afraid to even reveal to his wife that he had lost substantial sums of money, and I think that is probably true with many, many hundreds, if not thousands, of people who are the victims of these kinds of operations. They simply are too embarrassed to admit that they were taken advantage of.

Ms. ANDERSON. We function as a family unit, but in this case, the communications broke down. I take partial responsibility, absolutely, if not all responsibility.

Senator COHEN. Should we advise anyone who is watching this particular hearing that we ought to go back to the old caveat emptor, always let the buyer beware, especially in these days?

We are seeing, for example, that there is a tremendous surge of economic prosperity in Asia and the Pacific Rim countries. I suspect that we are not going to be dealing just with Canada or the Cayman Islands, but you are going to see a lot of these types of "companies" popping up in Hong Kong, Malaysia, and Singapore. All of these countries are now booming economically and people are told to look to the east in terms of economic opportunity. We can probably expect that we are going to see a proliferation of companies claiming residence in any one of these Pacific Rim countries.

Do you agree, Mr. Barker?

Mr. BARKER. We think that probably the best advice to the consumer is to look down east rather than east. I think it would probably be much safer to be involved in American investments,

unless you really know what you are doing and really have the professional backup to do it.

Senator LIEBERMAN. That was a fairly craven appeal to Senator Cohen.

Mr. BARKER. Yes, it was. I couldn't resist it, Mr. Chairman. [Laughter.]

Senator COHEN. I thank you for your wisdom in pointing all potential consumers to investments in Maine. [Laughter.]

I thank both of you for coming. It has been very helpful testimony.

Senator LIEBERMAN. Thank you, Senator Cohen.

I have just one or two more brief questions. Mr. Barker, as we are all seeing, we are involved now in what everybody calls a global economy, the world marketplace, businesses going on across national lines. What would you say to a consumer about investing in any foreign business opportunity or responding to any call from anybody that seems to be asking an investment from abroad, from Canada or further?

Mr. BARKER. I think one of the great failings we have as a people is that we think that wherever we go in the world, that U.S. law and our government will protect us, and this is not true. If you get arrested in Paris for some infraction of the law there, a nice guy from the American embassy will come and check on you and take your name and address but will not be able to get you out of jail.

People need to realize the same thing about dealing in a global marketplace, that it is global, the electronic systems are there, but the protections are not necessarily there for the American investor, and this is what you have to realize and make sure that you have some additional protections that may not be available to you under U.S. law when you do make that kind of investment.

Senator LIEBERMAN. So is it fair to say as a general rule to an American consumer, obviously not that they should not do business with a foreign company, but, for instance, if they are making a foreign investment, they ought to do it through an American agent or broker who is subject to American laws?

Mr. BARKER. There are plenty of opportunities to invest abroad through American brokerage firms. There are international mutual funds. There are all sorts of, I think, drawing rights and things that you can invest in here in the United States which are likely to give you much better protection.

Senator LIEBERMAN. And finally, what would you recommend to us in this very complicated area of international law and enforcement as possible solutions?

Mr. BARKER. I am afraid I don't have solutions. I think getting near a solution, one of the first things we need to do, which is what the Subcommittee is doing today, is to begin to get the people together who are responsible for our obligations abroad, for enforcing our laws, for protecting American citizens, and just initially seeing where we stand, where we are deficient.

Does the FTC have any authority to deal with its counterparts in Canada, for instance? What does the FBI do abroad? What are these resources that are available to us, and if we don't have proper resources, then the Congress must provide those resources or

the administration must seek to negotiate treaties that will give us those resources.

Senator LIEBERMAN. In your prepared testimony, you suggest the possibility that Congress should pass legislation allowing freer information exchange between American civil fraud authorities and their counterparts in other countries. Just give us a quick background on that.

Mr. BARKER. Yes. One of the things that we found when we were dealing with this problem of indium and germanium and gemstones was that we could provide information on complaints, such as that of Ms. Anderson, to the Federal Trade Commission, where it goes into its electronic fraud data base. That information could be made available to U.S. authorities, State attorneys generals and the FBI, the SEC, etc.

But the FTC was not able to make those complaints available to Canadian authorities. Therefore, we, a private organization, were giving information to the Canadian authorities which the Federal Trade Commission could not. That is one area that I think the Subcommittee should look into and find out why this is the case, and if it is, why they can't deal more directly with their Canadian counterparts in this particular area.

Senator LIEBERMAN. That is a helpful suggestion.

A final question, Ms. Anderson. Am I correct that these transactions by you are fairly recent, that they occurred earlier this year?

Ms. ANDERSON. They were very early in the year, say between January and April.

Senator LIEBERMAN. And have you at this point given up any hope of receiving any of this money back?

Ms. ANDERSON. It depends on whether prosecution of the people has taken place, of these specific people, and whether, if an agreement were reached with Canada, whether it would be ex post facto or retroactive to those arrests.

Senator LIEBERMAN. Do you know the status of those investigations at this point?

Ms. ANDERSON. I believe—I hope this is correct—I believe that 69 people out of about 130 who were found to be operating were arrested. They were involved in, say, a loosely-knit consortium of six or seven such companies. Their alliances change, depending on what the story is, and this comes from the Maine Securities Administration. I hope this is correct.

Senator LIEBERMAN. These are people who are operating around the Whitehall Metals Group in Toronto?

Ms. ANDERSON. Right. I believe Westchester Metals is also associated.

Senator LIEBERMAN. Yes, also around Toronto.

Ms. ANDERSON. I wonder, too, whether Westchester Metals, which is based in the United States, was defrauding Canadians. Does anyone know?

Senator LIEBERMAN. So you received help from the Maine Securities Division?

Ms. ANDERSON. Informational assistance. Their position is that we are not going to get our money back, but someone from Na-

tional Fraud said that there was a possibility that we could. I will do anything that I can to assist this process, not just for myself.

Senator LIEBERMAN. I wish you would.

Ms. ANDERSON. I would like to make a suggestion. If this isn't the proper time——

Senator LIEBERMAN. Go ahead.

Ms. ANDERSON. From the consumer point of view, it needs to be easier to check out companies. There needs to be more of a tree, say a telephone tree or a hotline or something where people can be directed to a lead to call to check out any company. And without it becoming a huge bureaucratic nightmare to administer this, could there not be a brochure or other publication issued by the State of Connecticut, an index of some sort to direct people to agencies, say for banking or for mortgages, just to give them an idea to go about checking out a company.

Senator LIEBERMAN. Thank you for that suggestion.

I thank you both for being here. We appreciate it very much. We are going to stick with the problem and try to continue the exposure and hopefully work with enforcement authorities to bring about some cooperation and response.

Thank you very much.

Mr. BARKER. Thank you, Mr. Chairman. Thank you, Senator Cohen.

Senator LIEBERMAN. Let us call the second panel, Laurence Urgenson, Acting Deputy Assistant Attorney General with the Criminal Division of the Department of Justice; Christian White, Acting Director of the Bureau of Consumer Protection at the FTC; Fred Verinder, Deputy Assistant Director, Criminal Division, FBI; and Michael Stenger, Assistant Special Agent in Charge, Financial Crimes Division of the U.S. Secret Service.

Gentlemen, good morning and thank you for being here. I gather you have been here for most of this session and have heard most of the previous testimony. We look forward to your building on it.

I will just go in the order in which I have people listed on my sheet, which is to begin with Mr. Urgenson. Thank you.

TESTIMONY OF LAURENCE A. URGENSON,¹ ACTING DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

Mr. URGENSON. Good morning, Mr. Chairman.

I would ask that my prepared remarks be made part of the official record.

Senator LIEBERMAN. They will be, and we will do the same for all the witnesses. Please assume that and keep an eye on the light. If the red light goes on and you have something compelling to say after it, please don't be constrained.

Mr. URGENSON. In light of that, I will dispense with reading them and just offer a brief summary, as appropriate.

Senator LIEBERMAN. That would be great. Thank you.

Mr. URGENSON. In the Department of Justice, it is commonplace to say that white collar crime was a growth industry in the 1980s. There was the insider traders scandal, the Ill Wind, the Depart-

¹ The prepared statement of Mr. Urgenson appears on page 55.

ment of Defense scandal, HUD scandals, and the granddaddy of them all, S&Ls.

To a greater or lesser degree, we still have those problems in the 1990s and we have additional ones, and they are complicated by two further trends. One is increased access to global markets on the part of con men, and the second is the impact of technology.

Both of those features are present in international telemarketing fraud, and we should start out by saying we are aware of that. Among the things we are doing, with respect to the international effort, is that our office of international affairs in the Department of Justice has been very aggressive in the process of negotiating mutual legal assistance treaties, or MLATs, with a variety of countries so that we can cooperate on the law enforcement side in dealing with international investigations. It is not always easy because of different concepts and different foreign laws, but it has been a priority for some time.

The second, with respect to technology, is that we now have lawyers in the Department of Justice who are experts in computers and technology. We have an entire subsection devoted to computer crimes because we realize that we have to be able to use new technologies, or at least understand them, as well as the con men do, and they are often on the frontiers.

With respect to telemarketing fraud, that is a special emphasis area in the Department of Justice. We are aware of the increases, we are aware of the increased internationalization, and we are trying to address it in two ways which I briefly outlined in the statement.

One is through task force efforts and the other is working groups, and the difference between the two is that a task force deals with cases in the real world. Fred Verinder from the FBI is probably going to discuss with you a bit Disconnect, which is a major case project in which resources are gathered together to deal with a particularly acute and difficult telemarketing fraud problem.

Working groups deal with policy issues, and we have a working group meeting in Washington today, and right now, I hope and expect that they are seated around the table addressing international telemarketing fraud, which is on the agenda. The working group brings together the Department of Justice and all the affected agencies, including the folks who are represented here today, to discuss questions of policy and approach.

One of the things that is being looked at is an effort to use technology on our side, on our behalf as well, and that involves a data base which would be the FTC and the National Association of Attorneys Generals pooling information, putting it into computers, and using the computers to identify patterns of telemarketing fraud and those who should be targeted for special emphasis and prosecution.

The thing I would emphasize in closing is that, as has already been mentioned by a number of speakers and by members of the Committee, is that there is no clear solution to this problem. It is very difficult and it is emerging, and I would emphasize that we are aware of it but we are here to listen and solicit ideas and thoughts as well as answer any questions you may have.

Thank you very much.

Senator LIEBERMAN. Thank you, Mr. Urgenson.
Next, we will hear from Mr. White from the FTC.

TESTIMONY OF CHRISTIAN S. WHITE,¹ ACTING DIRECTOR, BUREAU OF CONSUMER PROTECTION, FEDERAL TRADE COMMISSION

Mr. WHITE. Thank you, Mr. Chairman, Senator Cohen.

Thank you very much for allowing us to appear here today on behalf of the Federal Trade Commission. I know you are going to enter the Commission's full statement in the record, and I won't go through every aspect of that. I would like to give some personal observations that are my own and not necessarily the views of the Commission or any Commissioner.

You set the stage extraordinarily well. Telemarketing fraud is an enormous problem, and the Commission has been attacking it for a number of years, both on the law enforcement front and with consumer education.

I have attached to the statement one of our "consumer alert" brochures specifically dealing with Canadian gemstones. I can tell you that we have an additional "alert" soon to be issued dealing with indium, and I suspect after today I am going to have to ask whether that ought to be expanded to include germanium as well. It is critically important to get the word out to consumers about the scams and the hurdles and difficulties that they face.

We are using the tools that are available to us, and I want to describe that very briefly. The Commission is a civil law enforcement agency with both consumer protection and antitrust responsibilities. In the telemarketing scam area, we have brought some 110 cases against companies that have done more than \$1 billion in estimated aggregate sales. In these cases, we typically seek and obtain injunctions from Federal district courts against future fraudulent conduct, and when assets can be located, orders providing for redress to defrauded consumers.

In addition to the primarily civil work that we do, we are looking for improved ways to communicate with, to support and assist the criminal prosecution wherever that is possible to do. You have heard about the telemarketing fraud database which we operate. We think that is a useful tool. We have developed it, expanded it, we have tried to make it user friendly, and it seems to be catching on and we are pleased about that.

In the typical telemarketing fraud case, we will seek from a district court an ex parte temporary restraining order and an asset freeze order, and in some cases an order appointing a receiver to marshal those assets pending the trial of the case, if that is necessary, so that whatever resources can be found will be available at the end to be returned to consumers.

Ultimately, we are seeking a permanent injunction against this kind of fraud. The critical aspect of that is that that injunction can be enforced through the court's contempt powers, both civilly and criminally. With the type of bad actors that are involved here, the potential deterrence of criminal enforcement is critical.

¹ The prepared statement of Mr. White appears on page 56.

You have heard some discussion about the impediments to proceeding against offshore scams. We are committed to finding whatever ways we can to address the problem. It is an extraordinarily difficult one. If there were actors in the United States within our jurisdiction, either direct participants in the activities or others that don't deal directly with consumers, such as list brokers or credit card factors, the suppliers of the material, whose behind-the-scenes participation may be essential and who are culpable within the terms of our statute, we are committed to proceeding against them. However, when they are located outside the United States, there are practical and legal limitations to what we can accomplish.

You touched on one of the issues previously that is an impediment. Yes, indeed, it is true that the information supplied to the Federal Trade Commission that goes into our telemarketing fraud database may be shared only with other law enforcement officials who are able to certify law enforcement purpose and that they will maintain the information in confidence. At present, the law does not permit us to share that information directly with Canadian law enforcement officials.

We have, however, undertaken to assist the Canadian officials wherever possible with whatever information we can lawfully provide, including assisting them in developing witnesses, if needed, and providing witnesses in Canada for trial if that becomes necessary.

I cite in my testimony several examples of difficulties that can arise in telemarketing fraud cases. These are cases that we have initiated against actors that are present and within our jurisdiction in the United States, but we have encountered cross-border difficulties repeatedly.

We have had some instances of success in having the ill-gotten gains from fraudulent telemarketing returned from Canada. We had some success in having an individual returned from Canada to face criminal prosecution for evasion of orders that we had obtained. But the difficulties that face us are clear, and we are working very hard with our counterparts here today and with the States to find useful solutions to these problems.

The problem is not limited, as you have noted, Mr. Chairman, to the northern border of the United States with Canada. The Federal Trade Commission is working with counterpart agencies in other countries to identify emerging problems that cross borders and find ways to address them.

In 1992, Federal Trade Commissioner Roscoe Starek participated in the development of the International Marketing Supervision Network. That is a group of our counterparts from many countries that meets to share information about consumer problems. We are hopeful that that will be a forum in which, as this problem grows, we can find cooperative ways to work together nation to nation.

I see the red light, and I will stop there. Thank you very much, Mr. Chairman.

Senator LIEBERMAN. Thank you, Mr. White. I look forward to returning to you during the question period.

Mr. Verinder from the FBI, I know you have some interesting testimony about cooperative efforts between the FBI and Canadian

and other foreign enforcement authorities on this problem and I look forward to hearing that now. Thank you.

TESTIMONY OF FRED B. VERINDER,¹ DEPUTY ASSISTANT DIRECTOR, CRIMINAL DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. VERINDER. Good morning. Thank you for allowing us the opportunity to appear before you to discuss international fraud, particularly international telemarketing fraud.

Telemarketing fraud is a serious and costly problem, as you have heard this morning. Individuals knowledgeable of the crime problem estimate it upwards of \$40 billion a year. The personal consequences, as you heard this morning, are devastating. It is difficult to resist the tantalizing offer of the many subjects that are attempting to take away the individuals' monies.

I believe the problem is going to worsen. The trend of late with the international focus of the crime problem is increasing in the international area.

The FBI defines telemarketing as those crimes which rely on the telephone to contact the victim, during which time the product or service is materially misrepresented.

As you know, Operation Disconnect, which surfaced in March of 1993, a three-year undercover operation by the FBI using undercover agents to penetrate the network of illegal telemarketers operating in the United States, identified over 540 subjects. To date, 300 individuals have been charged and 120 have been convicted.

Senator LIEBERMAN. Those were all within the United States?

Mr. VERINDER. That is correct. Sixteen of our field offices participated in this undercover investigation. The investigation and prosecution of other telemarketers identified is continuing.

International telemarketing fraud, like its domestic counterpart, can be one of the more difficult white collar crime problems, as you discussed, gathering evidence and being able to penetrate an organization outside the United States is more difficult. They use multiple aliases, telephones, mail drops, and at times different business locations. They can change their method of solicitation, product line, or other recognizable traits overnight.

To complicate the matter further, because of the embarrassment and complacency, as we heard this morning, on the part of many victims, they go unreported.

By moving the telemarketing operation offshore, they are further complicating the investigative process.

A common international telemarketing scheme is the one you heard this morning, the Canadian gemstone telemarketing problem. These telemarketing operations are primarily based in Toronto, Canada, and contact victims throughout the United States. Typically, the telemarketers contact potential investors by telephone and advise them of the opportunity to invest. They are able to conceal the fraud because they insist that the gemstones remain sealed, so the victims are unable to obtain an appraisal.

Senator LIEBERMAN. They tell the victims to keep them sealed because presumably that preserves their value, is that right?

¹ The prepared statement of Mr. Verinder appears on page 60.

Mr. VERINDER. Yes, this is the pitch they make to the victims.

On March 5, as you heard, the Canadian law enforcement investigation resulted in the arrest of 68 individuals. A number of these scams targeted American consumers.

Another example of international telemarketing fraud schemes involves a telemarketing operation run by U.S. con artists defrauding U.S. citizens while having their businesses in Europe. Working with other con artists in Europe, answering machines were set up in several locations, including Paris and the Isle of Man.

The best way to describe it would be a triangle, they would have their answering machine one place, they would be located another place, and the victim would be in the United States. They would receive a package with a telephone number to call. The individual would call the answering machine, and leave a message. They would activate the message, then return the phone call, separating themselves from the machine and therefore our investigative lead to the number.

Senator LIEBERMAN. So the call was made, in this case, from Paris to the United States, right?

Mr. VERINDER. Or the package was mailed to the victim with a telephone number, say in Paris, and the subjects are in Isle of Man. They have thus removed themselves from the answering machine and our investigative lead to them, and the telephone number, is concealed.

Senator LIEBERMAN. But the answering machine was abroad, not in the U.S.

Mr. VERINDER. That is correct.

Senator LIEBERMAN. Did the victim know they were calling a foreign number?

Mr. VERINDER. Yes.

Senator LIEBERMAN. Let me just go on ahead.

Mr. VERINDER. It was big dollars. They were primarily targeting doctors, and the scheme was up to \$50,000 in offshore CDs, and different investment properties with a high rate of return.

One of the doctors advised he lost in excess of a half-a-million dollars in this scheme.

Senator COHEN. The President's health care plan may dry up that market. [Laughter.]

Mr. VERINDER. Not a single investor made a penny. It was basically all fraudulent.

In order to more efficiently address the international fraud, a number of initiatives, as you mentioned, Senator, have taken place. The first is the Caribbean Task Force. This has been 3 years in the making. I was informed yesterday that we have the draft that has been approved by the Department of Justice. We hope the ambassador will soon sign it.

That will involve two FBI agents and two Scotland Yard officials working in an overt manner in the Caribbean basin to investigate both U.S., Caribbean and matters of interest to Great Britain. The first of its type, it will be revolutionary. We are already getting inquiries from other countries in the EC that are interested in doing something similar.

This has taken a long time to get off the ground, just because of the different laws. It is the first one off the ground, and we want to make sure we are right in every dimension.

Senator LIEBERMAN. Let me just clarify. Is that going to be focused on telemarketing fraud operating out of the Caribbean?

Mr. VERINDER. All white collar crime fraud. This will not involve drug matters at all.

Senator LIEBERMAN. I see.

Mr. VERINDER. Telemarketing, yes sir.

Senator LIEBERMAN. With American and British targets of that fraud?

Mr. VERINDER. Correct. We are finding that there is a huge crime problem operating in the islands.

Senator LIEBERMAN. And the prosecution would generally be in the islands?

Mr. VERINDER. It will be in both places. We will support prosecution in the islands or it can return to the United States, because the criminal nexus is both places.

Senator LIEBERMAN. And you are involving the law enforcement authorities in the islands in this task force?

Mr. VERINDER. It is open to them. We have full cooperation. We have had joint meetings at Quantico. Everybody is on board. And as I said, it was approved officially yesterday. It will be signed hopefully within this month, and then the officers have been identified. They will collocate in Miami, Florida, and will operate in the islands.

Also pursuant to an agreement with Great Britain, we have one FBI agent assigned on a 6-month basis to the serious fraud office. We are on our fourth rotation, and the idea is to work in greater harmony and in greater coordination of matters of high-level interest. That has been working very, very well and is something we will continue.

In addition to addressing the international fraud crime problem from an enforcement perspective, the FBI has participated in many international training matters. We have been to Poland, Hungary, and Czechoslovakia providing them training, and at the same time developing their support for joint investigations.

With the light on, I will move forward. Mr. Urgenson mentioned MLATs. We have 12 signed which impact 16 countries. In all other countries, we have to use letters rogatory, which are much more difficult, much more time consuming. Those could take 6 to 7 months when MLAT allow us obtain records in less than 2 months.

Senator COHEN. Can I ask you what the hesitancy is on the part of countries not engaging in the signing of these treaties?

Mr. VERINDER. We are working with State and the Department of Justice in negotiations with them, but the sovereignty of nations and the concern of MLATs is causing some delay in the process. Maybe Larry could expand on that. It is something we are pursuing.

Senator COHEN. I will give him the question.

Mr. VERINDER. We also have extradition treaties with most countries, so even where we don't have an MLAT, we do have extradition if we can get the subjects identified.

On a local note, we are working very closely in training. We have a conference that will be held in November with the Canadians regarding gemstone and other ongoing international frauds.

We also have a conference with our partners in the European law enforcement community to explore other avenues. I will be traveling to VAT in November and will offer you a private explanation as to what we are doing in that arena.

But it is positive, it is new. Undercover operations are the way to go in telemarketing. It is difficult, of course, when it is a foreign country these are areas that we are trying to explore. Second is greater cooperation. Third, gathering the intelligence from everyone and putting it into one pot and deciding the best approach to take.

Thank you.

Senator LIEBERMAN. Thank you very much, Mr. Verinder. That was very interesting and very helpful.

Mr. Stenger, from the Secret Service, I know you have some testimony specifically on the problem of international credit card fraud, and we thank you for being here and look forward to your testimony now.

TESTIMONY OF MICHAEL STENGER,¹ ASSISTANT SPECIAL AGENT IN CHARGE, FINANCIAL CRIMES DIVISION, U.S. SECRET SERVICE

Mr. STENGER. Mr. Chairman, we appreciate the opportunity to let you know what the Secret Service is doing. I would just as soon summarize from my statement as to what we see the problems as.

Senator LIEBERMAN. Fine.

Mr. STENGER. We are involved in it basically because of the access device violations, which is credit cards and, to a certain degree, telecommunications. Most recently, we have been more involved in some aspects of telemarketing involving bank fraud statutes.

What we see here domestically, from offshore and within the United States, is that the telemarketer is targeting the elderly and the small businessman. It is no different from what they were doing here in the United States, now that they have moved offshore. Part of the reason they have moved offshore, we feel, is because of the oversight hearings in the United States and the laws that have been put in to effect recently, which has basically made the problem a little worse for us because they have moved offshore.

It is a growing problem. It continues with very little abatement.

One aspect we are doing, as was brought up here, is that we are working with other agencies, the FTC, the National Association of Attorneys General, and as was brought out, there is a meeting today which we are attending. One of the agenda items is the international flavor of telemarketing fraud.

We are very strong on the task force concept. We have a number of cities where we are participating in task forces with local, State, and other Federal agencies.

We see the problem in telemarketing fraud partially as the boiler room operation, but we are tending to target the broker, and the

¹ The prepared statement of Mr. Stenger appears on page 62.

broker in this case is nothing more than a middle man who goes forward and signs up collusive merchants to launder the credit card slips through.

The end result on that is if those credit card slips come up bad, many times the merchant doesn't have enough funds in his account to cover the charge backs. Subsequently, the acquiring bank loses the money and it is basically a bank fraud.

Senator LIEBERMAN. I am having trouble understanding. Why don't you give me a typical case of how an international credit card fraud would work?

Mr. STENGER. What we would see is, say, the telemarketer here moving offshore or, say, to Canada, where they are using 800 numbers calling in—

Senator LIEBERMAN. And who is the target?

Mr. STENGER. The victim would be here in the United States.

Senator LIEBERMAN. A small business person?

Mr. STENGER. No, it would basically be an elderly person or someone that basically picks up the phone and agrees to use their credit card to purchase an item.

Senator LIEBERMAN. And what are they being sold?

Mr. STENGER. I could give examples of them being sold what was referred to as a solar-powered clothes dryer, and ultimately what they received for \$100 was a clothes line with clothes pins. There is a question of—

Senator LIEBERMAN. That is a real case?

Mr. STENGER. Yes sir.

Senator LIEBERMAN. At least they have a sense of humor.

Mr. STENGER. What would happen is many times the telemarketer would, and the same thing going offshore here in the United States, would obtain a merchant who may be on the verge of going out of business and approach him and say, I cannot factor or use Visa or a bank to take my charge slips.

Senator LIEBERMAN. The merchant will say that?

Mr. STENGER. No, the telemarketer will approach the merchant.

Senator LIEBERMAN. OK.

Mr. STENGER. So you are the merchant who is having a rough time financially. I come to you and say, would you accept my slips and "factor" them through your account, in other words, run them through your account under your name. If those slips are ones that have been obtained by two or three times "hitting" that credit card, the individual whose credit card was used will dispute the claim.

Ultimately, the issuing bank will go back to the acquiring bank and say, we are not going to make good on those charges. Therefore, the bank then tries to debit your account, the merchant's account.

Senator LIEBERMAN. The merchant's account.

Mr. STENGER. And if the merchant is down on his luck and doesn't have any money in the account, subsequently the acquiring bank loses the money because they have no recourse to obtain the funds. So those are the people we are targeting.

Senator LIEBERMAN. It is pretty sophisticated.

Mr. STENGER. Actually, it is pretty simple. It appears to be more complex than it really is. They just have to target the right person, Senator, and they get it done.

Senator LIEBERMAN. And I take it this is happening a lot?

Mr. STENGER. This happens a lot, yes sir. I mean, there are a lot of merchants out there that need the money, because they will offer the merchant 10 percent of the gross receipts, and if the merchant is not doing well and they offer them 10 percent of \$100,000 in receipts, that is \$10,000.

That is a problem we have, because federally, that is not a Federal violation. Some States have instituted regulations prohibiting it, but federally it is not. It is a way of laundering funds, to a certain degree.

That is who we are targeting on undercover cases and trying to get information on those types of people through intelligence gathering. That, as I said, has caused some of these people to move offshore.

Asset forfeiture is another reason why we are seeing these people move offshore. To go after their assets immediately is a very big item for us. We want to get those assets back before they disappear and go into various ancillary-type crimes, which could be drug-related or any other type of ancillary-type crime.

I think moving offshore enables them to have less oversight. If there are no victims in those countries where they move to, the local police prioritize victim crimes; therefore, their priority on those types of cases is very low and it is hard to get their interest. So they feel there is less oversight there. As I said, more oversight here has caused them basically to move offshore.

The bottom line is most times the victim is still here in the United States.

We are maintaining liaison with police departments overseas, Canada, Mexico, the islands. We have a fairly good working relationship with them, but once again, the problem is their prioritizing of cases.

We are also staying in close touch with the industry, the credit card industry, and they have taken some strides and steps forward to try and identify these suspect telemarketers and limit their ability to go to an acquiring bank and get a merchant account.

In closing, I think another big area that we are stressing in the Secret Service and what we do a lot of is public awareness seminars. We just recently went out with Citibank on a nationwide tour, hitting Rotary groups and senior citizen groups and trying to sell them on the old aspect of if it sounds too good to be true, it is probably not true.

I will take any other questions you have.

Senator LIEBERMAN. Thank you, Mr. Stenger.

It is not the first time, as Senator Cohen will tell you, that something I thought was sophisticated was pretty simple. [Laughter.] I just wanted to say that before he had the opportunity to.

Senator COHEN. Actually, I was going to point out when he assumed that you were the distressed merchant in trouble, I was going to say that was closer to the truth. [Laughter.]

Senator LIEBERMAN. Let us start some questioning, and run the clock on us.

I take it from the testimony that each of you have given that you agree, each from your own perspective, that international

telemarketing fraud is a growing problem, it is a real and growing problem. Am I correct?

Mr. WHITE. Yes, Mr. Chairman.

Senator LIEBERMAN. Let me ask you a factual question that struck me as I listened to you. Are these Americans who are going to Canada to call back into the U.S. to defraud Americans, or are they Canadians? I use Canada because it is the case we are talking about. Do you know?

Mr. STENGER. We have found it to be a combination. We are working very well with the Canadian authorities because they are having the same problem emanating from the United States, where people in the United States are calling into Canada and defrauding Canadian citizens.

Senator LIEBERMAN. That is interesting to hear, because obviously that may give an incentive on the other side of the border for them to cooperate with us.

Mr. STENGER. We have worked very well with the Canadian authorities because they have this problem.

Senator COHEN. Could I just a question?

Senator LIEBERMAN. Please go ahead.

Senator COHEN. Is that a situation, what Senator Lieberman was talking about, where a U.S. citizen sets up an answering service in Canada, then calls from either Maine or Michigan or Connecticut to get the messages, and then conducts a transaction? Is that taking place, so that you have the contact being made as if it is in Canada, but it is actually a U.S. transaction?

Mr. STENGER. Because we have an involvement in telecommunications fraud, and that is one of the things that these telemarketers use a lot, one of their high overheads is the telephone charges when they are calling long distance. What we have seen and what we have been able to track them on is the telecommunications fraud. They are doing the same things with the credit cards from AT&T or MCI. They are stealing those access codes and charging all these calls for 30 to 60 days and then leaving.

So they have a high expertise in the telecommunications field of doing the call forwarding, the answering machines. They are very hard to track. Therefore, what appears to be a call emanating from the United States may, in fact, be emanating from offshore.

Senator LIEBERMAN. Do any of the others have a response to that question about whether these are Americans?

Mr. VERINDER. In the European example I cited, they are American con artists.

Senator LIEBERMAN. Who went over there to call back here?

Mr. VERINDER. In Operation Disconnect, we found also these subjects were calling Canada, so the fraud was being committed on Canadian citizens, but we also have the Canadians committing fraud on the Americans, and we have Americans going to Canada committing fraud back here, too.

The focus, though, of Operation Disconnect was the Americans committing fraud within in America and Canada, and Gemstone, for the most part, was Canadians committing fraud in Canada and the United States, but we are finding Americans also traveling, as in the European example.

Senator LIEBERMAN. I take it that those con artists who go across the border to try to make it harder for law enforcement authorities are having some success in that. I mean, it clearly is harder to track somebody down abroad, isn't that correct?

Mr. VERINDER. Yes. In the European example I cited, it is going to be most difficult to obtain prosecution.

Senator LIEBERMAN. Just describe it a little bit, why it is going to be difficult.

Mr. VERINDER. The first problem is evidence, it is historic and we are putting it together, not only from the United States but we are trying to get records from Europe, and we are having difficulty in obtaining some of that information. Even though they are trying to cooperate with us, it is most difficult. It is just difficult doing an historic investigative chase on telemarketers. You almost need to be in on the front end as they are committing the crime as in an undercover investigation having someone right there.

Senator LIEBERMAN. I know from my time as attorney general of Connecticut, when we were working on telemarketing fraud in this country, that what we always tried to do was get the interest of either the attorney general or the U.S. Attorney in the State where the group was operating or where victims were focused, because it was a bigger case. Clearly, that is a disincentive. I mean, if I am a prosecutor in Canada and I have a lot of things going on in Toronto, what is going to take this con operation which is defrauding people primarily in America to the top of my priority list?

Mr. VERINDER. We hope through these conferences we have to identify enough, and to bring the level high enough that it becomes a priority, showing that it is their country as well as our country that the fraud is being committed against.

Senator LIEBERMAN. Mr. White, did you want to respond?

Mr. VERINDER. We have a long ways to go in selling this, but we are having our first conference, as I mentioned, in November at Quantico with the Canadian authorities.

Senator LIEBERMAN. Good. Mr. White?

Mr. WHITE. Just to respond to your question, we can't say whether these are the same individuals and establishments that were operating out of boiler rooms in South Florida and boiler rooms in California during the 1980s, but if they aren't, they certainly copied the scam fairly well.

I would also say that if the caller in your tape isn't an American, that individual has had awfully good speech coaching.

Senator LIEBERMAN. Mr. Barker in his prepared testimony indicated that when raids occurred in Canada, there sprang up new indium-selling boiler rooms in the Bahamas and the Cayman Islands. Have any of you seen that kind of movement as well?

Mr. WHITE. We haven't seen it specifically, but it would not at all be surprising to think that there will be movement at the boiler room level. That is one of the reasons that we are trying to go after what we refer to as the roots. If the boiler rooms are the dandelions, you can go after those ad nauseam and you won't cure the problem. So we are trying to go after those that are up the chain and suppliers to the boiler room operators of the means that they need to work these scams.

Mr. Stenger referred to the problem of credit card factoring, and I just note that we have successfully brought actions under our statute against participants in credit card processing who are factoring charge slips for the scammers, where we could establish that the factor had the knowledge and level of participation so as to meet the legal standard for culpability.

Senator LIEBERMAN. Let me just finally ask you, before we go to the red light, what is happening in the Whitehall Metals Group case? What prospect does Jinna Anderson have of getting back any of her money? Are any of you involved in that?

Mr. White, were you going to respond?

Mr. WHITE. I can make a general observation, and we talked about it briefly in the statement. Where we are successful at obtaining an ex parte asset freeze order and serving that order on those financial institutions that do, in fact, hold the funds, we are often successful in returning at least part of the money to consumers.

But realistically, you have to understand, as has been discussed earlier, that this money moves extraordinarily quickly and the prospects in any particular case are not good.

Senator LIEBERMAN. I am just going to sum it up, because my time is up, but as I understand it, and this is an important part, again, of high technology coming into financial transactions, that once one of these operations knows they are targeted, and I gather this happened in at least one case, they can move money to the classic Swiss bank account within a matter of minutes, correct? So it is very hard to grab the assets when there is any notice of what is going on.

Mr. WHITE. They can, and they will. I will give you a vignette from a case that we recently brought in South Florida, where the attorneys who were involved in serving the orders on a particular boiler room happened to be in the boiler room collecting records at the time one of the answering machines lit up, and it was one of the other defendants calling in to say, get to the bank immediately, they are serving orders on the bank. If you don't get there immediately, you won't be able to get the money out.

So clearly, this is a sophisticated group of individuals. They are generally familiar, at least from the Federal Trade Commission standpoint, with the tools that we have available.

Senator LIEBERMAN. Thank you.

Senator Cohen?

Senator COHEN. Thank you, Mr. Chairman.

Mr. Verinder, you mentioned that you have a new task force that has been put together for the Caribbean, and I think you indicated you had two FBI agents—

Mr. VERINDER. And two Scotland Yard investigators.

Senator COHEN. What struck me about that, and you pointed to it with some pride, is that you are now going to dedicate this to this particular region. If the FBI is correct that we are losing about \$40 billion a year through these types of scams, it seems to be a rather insignificant effort that we are mounting just for that region, given the magnitude of the problem.

I am just raising this as an issue to you because of what the Chairman was saying on how do we get the attention of other people.

For example, to show you I am not entirely parochial about being down East, I woke up at 3:00 a.m. the other morning and picked up an article on crime in New York City. It was a devastating piece: 2,000 murders committed every year in that city; 500,000 reported felonies; a million unreported felonies; I forget the number of violent acts in the public school system; one out of four crimes committed in this country by those 15 and under are committed in New York City. Think of the mounting problems—how the criminal justice system is becoming dysfunctional.

Then you say, by the way, with all of the breakdown in civil order and violence in our society, we have a problem over here with white collar crime and somebody is being bilked by being sold a solar-powered clothes dryer. How do you raise the level of concern on the part of this country and, indeed, other countries?

For example, how do you get the attention of a prosecutor up in Toronto—saying we have a problem and that some of your folks have been bilking U.S. citizens. They would say, that is kind of your problem if you are that naive. We have other problems to contend with here in Toronto.

I suppose the only way you can really deal with that is to show that there is an economic interest. I would think, for example, if this hearing were to get wide exposure and people are watching saying, "I don't think I want to do business with Canada any more. Any time I see a company coming from Canada there is going to be a question mark in my mind." It could have a very significant impact if you start talking about companies operating out of Canada bilking investors from this country. The same would be true of any other country. I am thinking of Mexico, by way of example.

So there is a real economic interest at stake and other countries might find that to the extent that their legitimate businesses now have a shadow cast over them by virtue of illegal activities on the part of these scam artists, you might very well raise the attention level of the authorities in the various countries.

I say that by way of an introduction to a question I am going to ask you, Mr. Verinder. You mentioned these MLATs that we have. My understanding is that we signed an MLAT, or Congress approved an MLAT with Mexico some years ago that Mexico. I am unsure—did the Mexicans ever sign the agreement? A lot of officials, I think within the drug enforcement side of things, feel that Mexico simply didn't want to cooperate with U.S. officials on this.

Mr. VERINDER. We have MLATs with Canada and Mexico.

Senator COHEN. They have signed them?

Mr. VERINDER. As far as I know.

Mr. URGENSON. I know we have one with Canada that is signed. I know that there are negotiations with Mexico. I am not certain that it was signed.

Mr. VERINDER. MLATs were actually approved in the mid-nineteenth century. It was just about 1973 before we were able to move on the first one with Switzerland, and I think that one was approved about 1977. They are the way to go, if we can get the countries to cooperate and sign them.

Senator COHEN. Which countries are cooperating, and which ones don't cooperate in this regard?

Mr. VERINDER. On the MLATs, I can tell you that the following islands and other countries have signed; such as the Bahamas, the British Virgin Islands, Canada, Cayman, Italy, Mexico, Montserrat, Netherlands, Switzerland, Turkey, and Turks and Caicos Islands, and the United Kingdom have signed MLATs with us now. In the other countries we have to use, as I mentioned, letters rogatory.

Senator COHEN. Although Ms. Anderson is not in the room right now, she said that there has got to be a place that we can go to get information on these various companies. It occurred to me as I was sitting here and thinking about the announcements yesterday of TCI and mergers with companies in the information highway, coming about in the next several years, is it conceivable that individual consumers will be able to look at their television screens and hit a button and check on companies that are "legitimate" or those who have questions raised about them?

Is that even conceivable, or does that raise a lot of privacy issues? I think someone has mentioned that we have some difficulty in sharing information that we have on companies with other countries and vice versa. Do we have a problem there? Are we going to be able to have some kind of a repository of information where consumers can turn to say that this is legitimate, this is not, or red bells should go off?

Mr. VERINDER. Senator, if I could comment, and I know Chris would want to expand on my response, the problem, as you mentioned, is privacy. We can exchange information with law enforcement. It is difficult going outside that arena. FTC, in working in this arena with the victims and the credit bureaus, and has put together a data base. The FBI hopefully, within weeks, will be on board.

Senator COHEN. Can you tell me what happens with the data base? Mr. Barker talked about he turns over information to the FTC files. What happens then?

Mr. VERINDER. We just have to be careful of what goes in from our files, and that has been the problem with us participating. We like to take it (information) but we also want to give information and we do have to be careful on what we put in. That is what we are working with our legal counsel on.

Chris, you may want to expand.

Mr. WHITE. I can tell you a little bit about the data base. It is quite simple. We have a little computer that compiles the results of the information obtained from the National Fraud Information Center, from all of the law enforcement participants, and there are now some 50 participants, 30 States and some 20 other, mostly Federal, agencies, and that number is growing.

We obtain information on the type of complaint, the location, the amount, the category of what the scam might be. That information is put into the data base, compiled, and can be extracted by participants who might want to query the system on a specific company. They might want to pull out from the data base information on complaints that have been lodged by consumers in a particular State.

We use the data base to compile potential witness lists, since we can do a run that gives the individuals associated with a particular company, their location, and their telephone numbers, and then we can use that to contact them and to determine whether they would agree to be witnesses in a case if we needed that.

That is law enforcement information. It certainly has significant personal privacy implications, and under our statute, we are able to share that with State and Federal officials who can certify that they have a law enforcement purpose for obtaining it and that they will maintain it in confidence.

As I think you well know, the Federal Trade Commission has a very complex and comprehensive set of confidentiality protections for those who would submit information to us, and we are charged and are committed to guarding that information very carefully, in accordance with the law.

That is what results in the situation Mr. Barker referred to. We do not have statutory authority to share that information with non-U.S. law enforcement officials, and we don't have the authority to publish it, if you will. We are, however, working as best we can around those concerns to support the foreign law enforcement where we can.

Senator COHEN. Can I ask you an unrelated question? What sort of computer security do you have for those lists?

Mr. WHITE. Let me just give you one comment about that.

Senator COHEN. I will tell you why. It seems to me another growth industry would be computer hackers——

Mr. WHITE. That is exactly right.

Senator COHEN. And if I wanted to take my name off the list and I knew that I was being investigated, I would go in and I would erase it. Or, number two, what I would do is go in and find out a list of all the people that have been bilked and look at it as another opportunity. They have been taken once, I have a better deal for them.

Mr. WHITE. You are right on the money, since so many of these scams are what we refer to as reload scams. The best and most fertile list that the scammers could go to is the list of people who have already been taken. I have now seen my first triple reload, and it is just most unfortunate.

Just a comment in terms of data integrity, that is a very critical problem. It led us to conclude, for example, that we ought to establish a separate host computer and not include this information in the Commission's central computer data base so that there would be no links and no way that you could penetrate from one to the other.

We obtain certification of law enforcement purpose from all of the participants and have a comprehensive scheme of protections. I will say it is a system that is accessible from remote locations by dial-up telephones, and one is always concerned about that and we are working very hard to protect it.

Senator COHEN. I don't want you to get too specific. The more information you give out, the easier it is going to be to penetrate whatever obstacles you have placed.

Mr. WHITE. No, all of what I have told you is public.

Senator COHEN. Had you finished?

Mr. WHITE. Yes sir.

Senator COHEN. My time is up.

Senator LIEBERMAN. Thank you, Senator Cohen.

Just two final questions. One is that we have talked a lot about the MLATs, which I gather again are Mutual Legal Assistance Treaties. Let me just understand briefly, Mr. Urgenson or anyone who wants to answer, when a country signs an MLAT with the United States, what does it oblige that country to do with us or for us?

Mr. URGENSON. What an MLAT does is it sets up a mechanism for communications between the Department of Justice, law enforcement in the U.S., and law enforcement in the foreign country on a direct-line basis. Otherwise, you have to go, as Mr. Verinder said, through the letters rogatory court process, State Department. So that is the mechanism, and the content varies from treaty to treaty.

Senator LIEBERMAN. OK. Then the final question is this. We have what everybody acknowledges is a growing problem of international telemarketing fraud. One estimate given today is \$60 million lost to Canada, overall \$40 billion. We are talking about the Cayman Islands and France. Clearly, it is rising as a concern. You are beginning to work cooperatively, you have this international meeting coming up. I appreciate all of that.

What, if anything, can we specifically do in Congress by way of law or other action to help you do what we want you to do? Or do you have an answer?

Mr. STENGER. I think, as far as we are concerned, the factoring situation, if this could be looked at as far as a Federal violation. There is not a Federal violation for factoring. That would go right to the heart of the problem for the collusive merchant.

If we eliminate an opportunity and a way for these telemarketers with credit cards to move their money through a collusive merchant and make the surety of prosecution or retribution on merchants, they may be more reluctant to become involved in something like this.

Senator LIEBERMAN. I would welcome just a short memo on that from you and what you think we ought to do to change the law in that regard. That is helpful.

Does anyone else wish to respond?

Mr. VERINDER. I believe, Senator, that we have adequate laws. We can use the wire fraud and mail fraud laws, and they work well with the foreign government nexus.

Senator LIEBERMAN. The real question here, then, is to try to induce more cooperation from the foreign governments?

Mr. VERINDER. That is the key.

Senator LIEBERMAN. Are you getting enough help from the State Department? Maybe we should have had somebody here today from the State Department. Are you getting enough assistance?

Mr. VERINDER. We coordinate with the Department of Justice, and they coordinate with State.

Mr. URGENSON. No problem has come to my attention with State.

Senator LIEBERMAN. Yes.

Mr. VERINDER. The difficulty is just convincing the foreign governments to follow up.

Senator LIEBERMAN. All right. I appreciate your being here. We are going to stick with the problem, because it matters to consumers in America.

The record will stay open for 2 weeks, if you have any additional testimony you want to offer or if we have any other questions we want to ask you to answer for the record.

I thank all of you very much. I hope some people have heard the hearing or will hear about it and will protect themselves, which ultimately, obviously, is the best defense to being a victim of fraud.

Thank you very much for your time.

Mr. URGENSON. Thank you, Mr. Chairman.

Mr. WHITE. Thank you, Mr. Chairman.

Mr. VERINDER. Thank you, Mr. Chairman.

Mr. STENGER. Thank you, Mr. Chairman.

Senator LIEBERMAN. The hearing is adjourned.

[Whereupon, at 11:29 a.m., the hearing adjourned.]

A P P E N D I X

Written Testimony to Support Consumer Complaint

Presented to Senate Committee To Investigate Strategic Metals Frauds, 1993

Hart Senate Office Building
Washington, DC 10510

October 15, 1993

Jinna M. Anderson
North Guilford, CT 06437
Witness/ Presenter

Abstract Consumer Complaint, of Wire Fraud : A \$19,000 By-telephone Purchase of Strategic metal at inflated Prices currently is found to be Unrecoverable due to Perpetrators' Immunity Afforded by Extra-national Banking Arrangements

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October 15, 1993

Re: Purchase of Germanium Sold By Whitehall Metals Group, Toronto (Transactions, 1993)

We have purchased, at greatly inflated prices, metal (germanium). The metal was presented to us over the phone by a company representing itself as an investment group / brokerage firm (Whitehall Metals Group, of Toronto).

The prices quoted over the phone for the metal were stated as market prices.

However, these prices were later found to have been inflated by a factor of between 6,700--8,400 %, and were, therefore, fraudulent.

At your request, we are providing the following information describing (3) transactions with Whitehall Metals Group which together totalled a \$19,000 expenditure.

We first became acquainted with Whitehall Metals Group in Jan 1993.

Information was received in the mail concerning strategic metal (germanium)/Brochure,

Exhibit A

Shortly afterward--we received a telephone call from Mr. Stone of Whitehall Metals Group, an inquiry as to our interest in investing in germanium. We were assured that it was a good, safe investment.

We bought four ounces (4 oz.) at 355.00 per ounce. (First transaction FED EX.)
(First investment totalled \$1420.00 plus \$35.00 shipping == \$1455.) Exhibit B

(We would send a check via Federal Express. Once the check cleared we received the four ounces of germanium to have in our possession, also via Federal Express)/ Exhibit C, Assay Report

This was done on January 28, '93. About two weeks later another gentleman from Whitehall Metals Group telephoned from Toronto (Michael Hamley) & said he would be our broker.

Exhibit D, Business Card

One concern we had about the metal was that we found we could not track the value/ cost of the metal, on paper or by any other way (We tried). He told us that it was a closed market in England and that Whitehall had a seat on it. He assured us it was a safe investment; we could within 72 hours cash-in any germanium and receive a check.

¹ Ronald D. Guttman (husband) and myself

One month later we were called by Hamley. He stated the metal went up to \$383/ oz. and wanted to know if we would buy an additional 20 oz. Said the metal would continue to go up in price. After a couple of days to think it over we decided to go ahead with purchase.

(That is, on March 2, 1993 we bought 20 oz. for \$7660, based upon "broker's" statement that the market value of the metal had increased from \$555 to \$383/ oz.)

Our biggest purchase was April 1, 1993. Once again we were contacted by Hamley. Hamley stated market price was \$420/ oz. He told us if we purchase 26 oz. he could give it to us at \$396/ oz. He also stated as of July 1, 1993, germanium "was going on the New York metals market, where its price could go up considerably". He assured us that there was no downside to the investment due to increasing need. He cited the trans-Atlantic fiber optic cable as an example (Germanium as a thin-film coating or "dopant," is used to increase transmission quality of light signals in the cable.)

Our investment at this time was \$10,296.00; investment was based upon the above statements made to us over the telephone.

Altogether we invested over \$19,000/ Invoices, Exhibit E

On May 26 ('93) we received a letter from Whitehall saying they were "immediately divesting their non-commercial metal accounts.... As of May 21", the letter stated, they were turning our account over to another company. We became very concerned when I realized that the letter had been sent three days after date specified for closing their accounts. We were unable to locate the named company (Laval Mercantile Enterprises) by any means.

/ Exhibit E, Letter From Whitehall

We started investigating, ourselves. We telephoned (for ex.,) Consumer Protection in Canada (They stated Whitehall Metals group's files were "out", under their investigation.)

We telephoned metropolitan Toronto Police Department who were investigating Whitehall. (Police officer said metal was worthless, we could kiss the money goodbye. The Officer said the Royal Canadian Mounted Police were now doing the investigation.)

This entire expenditure was made based upon Whitehall Metals Group's false claims about what the metal was worth, the stated "market value" of the metal.

Please note: All statements about market value were made over the telephone, so that these statements do not appear in any advertising or other hardcopy. That is, they do not appear in writing except Invoice(s)/ Exhibit E, referenced earlier

Discussion

Skill of Operators of Strategic Metals Fraud. Despite the reality of the loss of funds in a scam, there is still a sense of disbelief that informational material presented to us was fraudulent, false.

That is because impressions of the personae and their presentations were, and are, that they were unquestionably believable.

I refer you at this time to Results of the Maine Security Administration's investigation of Whitehall Metals Group which has been turned over to the FBI.

To paraphrase, their findings, this group, in operation since the mid-'seventies, is exceptionally skillful in repeatedly producing scams; they are "very, very good at it," so good, in fact, that "one need not feel badly about having been fooled."

(This was relayed to me in a telephone conversation with one of the principal investigators within that office. Audiotapes had been made of the principals in action.)

I would like to go into some detail.

Presentation (Intangible): Over the telephone, principals trustworthy, professional, giving impression of knowledgeable ability (in speaking of metal and why a superior investment).

Not pushy at all. Very slick in terms of getting you to invest. Gentlemenly, you are made to feel you are "in good hands." *Also, prepossessing, presuming to be, already, your broker.*

At-one with you, from the outset (our observations).

Our investment requirements: Our interest in investing was to receive a slightly better ROI, return on investment than that offered by banks.

If the market-value representations of the Whitehall Group had been true, ROI would have been \$1,624, or 10% (taxable) in just *two months, vs.* bank's \$570 (at 3%, taxable, for *1 year*).

Was to have been a short-term investment with order to broker to sell when metal reached \$600 in New York Metals market.

This was our first experience in investments other than real estate.

Our concern in investigating the metal germanium superseded our interest in investigating the company, itself.

"There Is No 'Downside' to Investment in This Metal." Our assurance was that there was no "downside" to the investment. Being brokers, Whitehall would not allow investment to sink below that level which would deprive them of their per cent.-based commission. They would notify us accordingly of declines in market price.

"Market Not volatile". All principals of Whitehall Metals Group (with whom we had contact) stressed that the market was not volatile, that while price would not increase drastically, neither would it "fall out".

Presentation (Tangible). All statements about Market value were made over the telephone, so that no figures appear in any advertising or other hardcopy. The only place they appear in writing is on Invoices.

Regarding the 72-hour Refunding Period. As for the 72-hour refunding period, I refer you to Maine Security Administration's description of just how involved and tricky one such refunding procedure became.

To achieve this refund necessitated Maine Securities Admin.'s participation in countermeasures, to achieve *just this one refund* (from Westchester Metals, a linked organization.) And, it was not repeatable because Whitehall Group had to be fooled into giving the refund.

You may find that this was the only such refund, and it took a lot of work. ²

2 Jan Bryant Quinn (Syd. Columnist), "Staying Ahead"
(Article on Westchester Metals a related firm, Stateside)
In March, 1993 Buffalo News
ref.: Editor (Mr Vogel)
Buffalo News, 716 849-3434

Our Follow-up

In the interest of possibly recovering our money we have followed-up.

Several clearinghouses of information regarding germanium and similar frauds in strategic metals (indium and rhodium) have concluded their researches and have forwarded their findings to the FTC and FBI. ³

We have learned that all victims of the Canada-based operation(s) were within the United States.

We have found out that the principals involved in the germanium scheme have great longevity in fraudulent activities.

They have been practicing since the mid-seventies (Ex.: Rolex counterfeit watches). They go back and forth between Europe and the U. S., depending upon the location of outside scrutiny./ *Please refer to Maine Securities Admin. findings*

The principals are repeat offenders whose criminal actions are assisted, enabled by current laws granting immunity to certain nations' 'foreign' bank accounts. Their plunder resides in Swiss bank accounts, collecting interest 'til it bankrolls the next scam.

(Generally speaking, under current laws, victims who were defrauded up to the time of arrests have no redress. For, their monies are inaccessible.)

³ National Fraud Information Center 1-800-876-7060
c/o National Consumers League
815 15th Street, NW
Suite 928 N
Washington, DC 20005

Maine Securities Administration	Sandra Sammartano
State House Station 121	Steve Diamond
Augusta, ME 04333	207 582-876

Summary

Through fraudulent marketing practices, one's mailbox and the telephone within one's home have great potential. They're a waiting cauldron of financial loss, a hotline to monetary destruction.

In all strata, the Direct-mail and Telemarketing media (tho' sometimes irritating) *are utilized with honest adherence to codes of business ethics*. Standards and practices and their enforcement need to be cleaned-up in advance of the Information(al) Superhighway that is now being laid out. Where transactions are "instantaneous," fraud will become even more out-of-control.

Criminals, especially repeat offenders--need to be taken out of circulation by new laws to protect the purity-of-representation of products and services. Their foreign bankrolls need to be amputated. There are victims requiring redress.

The germanium fraud(s) are a working example deserving attention, that of the matter of the amount of damage that will be tolerated by repeat offenders.

These criminals possess longevity. The *plasticity* and *transferability* of their operation, the *immunity from seizure* of their re-startup funds, needs to be examined as an exemplar. The matter of current victims' always forfeiting their funds can be co-addressed.

I would like to express appreciation of various committees and U.S.- Government Agencies (and Canadian authorities) who have taken an interest in investigating the strategic metals mail/ wire fraud operations, either on its own merits or those of a test-case.

The interest of the U.S. Senate signals your concern. Hard work and concern needs to be exercised by the Legislature. Enforcement must develop apace of the expansion in electronic informational transmission. Products and services must be monitored in International Commerce, or total chaos will ensue.

PREPARED STATEMENT OF JOHN F. BARKER

Mr. Chairman and Members of the Committee:

The National Consumers League is honored to appear before the Subcommittee on Regulation and Government Information today to consider an emerging crisis in law enforcement—telemarketing, telecommunications, and investment fraud operating offshore and targeted at U.S. victims.

The National Consumers League commends the Subcommittee and its chairman for recognizing the severity of this growing problem. By holding these hearings today, you begin to address an international crisis which has already resulted in hundreds of millions of dollars in annual losses to our citizens and to American corporations. Those millions, invested in legitimate American enterprises and companies and available to stimulate growth and productivity, could provide important benefits to our economy. Instead, they leave the country and benefit no one. In what *The New York Times* calls a modern "gold rush", the consumer is lured by the promise of quick profits in risky undertakings in what are euphemistically called "emerging markets". This "gold rush" has also presented an irresistible opportunity for the con artist.

Today's hearing, Mr. Chairman, is a first step in a promising effort to marshal our national resources to combat international fraud. National Consumers League believes it is important for the Congress to take an active role in this issue and to seek legislative remedies to regulatory and jurisdictional impediments to effective enforcement of our fraud statutes.

Last year, Mr. Chairman, the National Consumers League established the National Fraud Information Center to serve as a clearinghouse for consumer fraud reports and to assist law enforcement and regulatory agencies in detecting and prosecuting fraud cases. During the past few months, we have reported a dramatic increase in losses due to international fraud targeted at U.S. victims.

Our current estimate of losses due to fraud emanating from Canada alone exceeds \$60 million per year. What we find particularly shocking about this figure is not only the dollar amount of losses, but more important, that it represents illegal proceeds going to no more than ten or twelve telemarketing operations in and around the Toronto area.

These boiler rooms—engaged in telephone sales of bogus gemstones and precious metals—illustrate very clearly the nature of international fraud, the jurisdictional problems we face in prosecuting civil fraud cases involving foreign promotions targeted at U.S. victims, and the potential for even greater losses if we do not act promptly and expeditiously.

One of the principal scams directed at U.S. investors this past year has been the sale of a supposedly rare strategic metal called *indium*. Although the metal has little intrinsic and no market value, Toronto firms market "contracts" selling for approximately \$40 per ounce and deliver indium in small paperweight size ingots to U.S. citizens. Investors are assured that their indium will at least double in value within 3 to 4 weeks. Victims are asked to send cash or money orders via private carrier or to wire funds directly into a Canadian bank account.

[Private mail carriers and electronic funds transfers are two major new resources at the disposal of international fraud artists. Funds sent by private carrier in pursuit of a fraudulent activity do not violate the mail fraud statutes. They arrive the next day and are quickly laundered. Funds sent by bank transfer are deposited in foreign bank accounts instantly and are available for transfer out of those accounts and into more secure accounts the same day.]

Today, U.S. victims must call a private carrier for pickup and delivery of cash to foreign destinations. An electronic funds transfer requires at least a phone call to the bank. In the near future, it should be possible to transfer funds to foreign bank accounts at the touch of a series of PIN numbers on the home telephone.]

Within 2 or 3 weeks, the victim is contacted again and told that the price of indium is rising and that it should reach record levels within 2 or 3 more weeks. The victim is urged to purchase more indium, this time at \$60 or \$70 per ounce. The average sale is 100 ounces or about \$5,000. We have, however, seen contracts as high as \$80,000.

What is indium? Indium is a silvery metallic element used primarily as a plating for bearings. It is not rare, it is not strategic, and it is not particularly valuable. There is no market in indium, as there is for gold, silver, and certain other precious metals. It is worth less than \$5 an ounce.

Who are the victims and why did they purchase indium? A recent Harris Survey commissioned by the National Consumers League indicates that the average investment fraud victim is unschooled in investment terminology, rarely reads the finan-

cial pages of the newspaper, and is generally motivated by promises of quick profits on risky investments. Such is clearly the case here.

Harder to assess, but no doubt part of the lure of indium, is the fact that it is marketed from abroad. Nothing seems to attract the unschooled investor like "off-shore" investments. A call from Toronto or a letter from the Cayman Islands or the Netherlands Antilles speaks of quick profits and easy money.

It is also likely that those telemarketing indium and other offshore investments offer the added incentive of "tax free" capital gains. The investment is made with a foreign firm. The money is sent by money order or wire transfer. The investor actually receives a product, making it difficult to make a case that the offer constitutes an unregistered security or a commodities future regulated by the SEC or the Commodities Futures Trading Commission. When it comes time to sell, the product itself is sent back abroad. No IRS form is submitted to report the capital gain. Not only will there be fantastic profits, but these profits will be tax free.

As it turns out, however, the lure of untaxed capital gains becomes moot when the investor discovers he or she has lost the original capital as well as any potential gains.

Our National Fraud Information Center began to process indium complaints in early February of this year, although it is apparent that the Canadian dealers were operating at an earlier date. Since February, we have reported 260 complaints to the Federal Trade Commission, the FBI, and Canadian authorities. Since our surveys indicate fewer than 10 per cent of victims report fraud losses to authorities, it can be assumed that there may be as many as 3,000 victims. We estimate losses in excess of \$25 million.

Following a television news report late this spring, many of the Toronto sales operations closed down. This did not, however, stop the traffic in indium. Many dealers simply moved—or pretended to move—out of Canada. Within 2 or 3 weeks, we began to receive reports that indium dealers were operating out of the Bahamas and the Netherlands Antilles. Those who had been scammed once were now "reloaded" and told that there was a buyer for their indium—usually described as a Japanese businessman or a German industrialist—who would pay \$75 an ounce for the product.

The prospective buyer was interested in at least a metric ton of indium and had solicited the assistance of the company involved in putting together the deal. The victim was told that he would have to purchase an additional 100 ounces or so to help make up the difference between what he owned and other sellers owned and what the prospective buyer required.

Although the "reloaders" were much less successful this time around—since the National Fraud Information Center, law enforcement authorities, and consumer protection offices warned victims of the likelihood that they would be contacted—many jumped at the chance to unload their indium and recoup their losses.

The indium scam is but one example of the type of investment fraud operating offshore or—in this case—north of the border and targeted at U.S. victims. The list is almost endless: offshore oil and gas leases, Swiss bank investments, lotteries, and any number of opportunities to part with your money in the Caribbean.

One of the most lucrative is the international gemstone racket. This scam also operated out of the Toronto area until very recently—and shows signs of picking up again as authorities relax their vigilance. The gemstone victim is much like the indium victim, unschooled in gemology and therefore an easy mark for the fast talking promoter. The victim is sold a "valuable" gemstone at discount on the promise that it will increase dramatically in value if held for 1 or 2 years. The dealer offers to repurchase the gem at some indefinite point in the future. The price can be anywhere from \$1,500 to \$8,000 or more. The record, however, goes to a Pennsylvania man who invested \$1.4 million in bogus Canadian gems.

The gemstone is delivered to the victim in a sealed plastic case with the warning that tampering will result in loss of resale privileges. This discourages the victim from taking the gemstone to an appraiser for independent valuation. The victim is urged to hold on to the gem until it increases in value (and until the seller has time to clean up and move on). By the time the victim gets suspicious, the seller is out of business. The gem itself is virtually worthless, usually an industrial grade stone or similar.

The National Fraud Information Center has reported 431 cases of gemstone fraud since last November. Total loss to American investors is more than \$35 million.

These are just two examples of international fraud targeted at U.S. victims. But they illustrate very clearly the nature of international fraud, the problem of dealing with victims who are easy prey to international con artists, and the jurisdictional issues which make it challenging to detect, apprehend, and prosecute the perpetrators.

Americans should understand that, when foreign companies, governments, or individuals are involved, there is little that the U.S. government can do to protect them. In situations such as those involving gemstone and indium frauds, foreign authorities are generally not interested in helping recover losses. Canadian authorities did their best to apprehend the con artists who were victimizing U.S. nationals. Canadian police carried out raids on Toronto gemstone boiler rooms, made a number of arrests, and seized documents and bank accounts. But this is the exception, rather than the rule. The Canadian police are not going to place high priority on investigating crimes which have no Canadian victims, violate no Canadian laws, and may not constitute extraditable criminal offenses.

U.S. law enforcement and regulatory authorities are just beginning to place a high priority on these offenses. There is so much to do right here at home that little effort and even less money has been earmarked for detection and apprehension of foreign nationals defrauding U.S. victims. And, in many cases, U.S. enforcement authorities lack jurisdiction to investigate.

The fact that telemarketers operating outside U.S. borders do so with impunity is only one factor in the dramatic increase in offshore fraud. There are many other reasons why boiler rooms are packing up and leaving Las Vegas and Houston for points north, east, west and south of the border.

In part, Mr. Chairman, we are victims of our growing success in combatting home grown fraud. Until recently, boiler rooms in the United States have operated with very little interference from law enforcement and regulatory authorities. They were able to avoid local jurisdiction by targeting out of state victims. They were able to avoid federal jurisdiction by being careful—they used private mail carriers instead of the U.S. mail. They used the telephone and relocated every six to eight weeks to avoid detection. They relied on the fact that federal enforcement agencies had more serious offenses to investigate than white collar crimes involving rich investors.

But this is no longer the case.

The Congress is about to enact new legislation which will provide authority for state attorneys general to go after out-of-state boiler rooms in federal courts. There is legislation currently before the U.S. Senate which would authorize postal inspectors to investigate fraud involving the use of private letter carriers. The Federal Trade Commission recently expanded its Mail Order Rule to include telephone sales. Many states have recently enacted telemarketing legislation which force out-of-state telemarketers to register and post bonds before placing calls into their jurisdiction. Fifteen states now require registration and bonding of telemarketers; and 18 states have introduced registration legislation this year.

Both federal and state authorities have improved their ability to detect and apprehend con artists. The U.S. Department of Justice has formed an interagency telemarketing fraud working group which meets regularly to exchange information and co-ordinate investigations. The working group is made up of both federal and state law enforcement authorities. The FBI has placed a much higher priority on economic crime investigations and recently launched a series of successful raids on illegal telemarketing firms. The National Association of Attorneys General has formed a consumer protection task force which meets regularly and co-ordinates investigations and court actions among states.

The Federal Trade Commission is undertaking a new offensive against telemarketing fraud and has vastly improved its electronic database of complaints, incident reports, and intelligence on consumer fraud. The National Fraud Information Center is a contributor to this database and posts 60 to 70 new incident reports to database users each day. Most federal agencies and many states are partners in this information exchange.

The heat is on.

Co-ordinated enforcement and improved detection efforts on the part of federal and state officials have been matched by the efforts of private corporate anti-fraud units. Many long distance carriers now employ sophisticated fraud detection techniques. Credit card companies have extensive resources to combat fraudulent use of their cards. And both private and public entities are beginning to work closely together to detect and apprehend con artists.

Still, international credit card fraud poses a major threat to U.S. corporate victims and results in higher fees for the American consumer. MasterCard International, for example, reports international credit card fraud totalling more than \$75 million so far this year.

Three factors make it easier to commit credit card fraud outside the United states. The first is the practice of many foreign credit card operations to permit higher floor limits on purchases. Most purchases in the United States are subjected

to an automatic verification process. In Japan, on the other hand, purchases up to \$400 will not be verified or subjected to point-of-sale authorization.

Outside the United States, point-of-sale authorization terminals are the exception rather than the rule. Many overseas merchants rely on outdated paper listings of lost and stolen credit cards. As a result, cards that have been blocked as stolen can continue to be used for weeks until revised warning bulletins reach merchants in the far corners of the globe.

The third factor is the lack of specific laws in many countries making credit card fraud illegal. In most countries, it is considered a minor offense. In many cases, the perpetrator is not prosecuted. In other cases, the punishment is deportation.

Overseas laundering of credit card transactions is another growing problem. Many foreign banks are unaware of this practice and unable to identify it.

The telecommunications industry is another prime target of international con artists. With modern telecommunications advances such as call forwarding, the con artist can use a telephone number in the Bahamas which routes calls from the United States right back to the United States. The victim thinks he or she is dealing with an "offshore" brokerage or investment firm when, in fact, the call is being redirected right back to the victim's neighborhood.

The same folks who brought us those deceptive and misleading 900 number pay-per-call programs a few years ago and bilked hundreds of thousands of Americans now operate offshore. When Congress responded last year to the wholesale fraud and deception which plagued the 900 number industry by authorizing tough new regulatory authority for the FTC, the con artists moved south. They now operate in the Dominican Republic and other Caribbean countries. The individual calling the number thinks he is calling in the United States, because the number has an Area Code much like those used at home.

Calling card fraud and "shoulder surfing" (looking over someone's shoulder to read calling card ID numbers) are other frauds which plague U.S. long distance carriers and their subscribers. In many instances, foreign nationals working in service industries gain access to American tourists' calling card numbers and sell the numbers on the black market. Shoulder surfing is used primarily in the United States as a means of acquiring calling card numbers which are, in turn, used to place long distance calls overseas.

The similarity of telephone dialing systems in Western Hemisphere countries is used to great advantage by con artists. Many victims believe they are calling U.S. firms, since offshore boiler rooms also use 800 numbers and three-digit area codes. As the saying about Canada goes—the system is foreign, but familiar, friendly, and near.

Advances in the telecommunications industry make it as easy to dial Surinam as Seattle. Advances in data transmission capabilities have also created vast new opportunities for the con man.

Modern electronic financial networks make it child's play for con artists to complete transactions. They no longer need private letter carriers if electronic funds transfer systems are available. With electronic transfer, the victim can wire funds instantly to an investment firm in the Bahamas. These funds, when received electronically, are immediately re-wired to accounts in Canada or back to the United States. A con artist operating in Algiers can contact a victim, arrange for and collect payment, and disappear into the Casbah in less than an hour. Funds routed to the Bahamas can be re-routed to several different points of the globe instantly.

The revolutionary new electronic financial data highways now in service are a leading contributor to international fraud. And the problem will only get worse. Dishonest fraud artists, as well as honest American tourists abroad, can use a stateside ATM or credit card and enjoy access to electronic funds networks which transmit large sums of cash instantly between countries. Once the funds transfer is authorized and launched into the system, it is difficult to identify recipients. Receipts and audit trails are inadequate and sometimes non-existent. Within the United States, for example, it is now possible to wire funds which can be collected—using a code name and no identification—at any one of tens of thousands of convenience stores throughout the country. Adding an international element to this problem multiplies the potential threat to astronomical proportions.

One of the major difficulties in dealing with the growing crisis in offshore fraud, Mr. Chairman, is the lack of readily apparent solutions. We must first of all face the fact that, when a U.S. citizen is bilked by someone operating offshore, the long arm of U.S. law can't always reach out and grab the culprit. Americans must become much more wary of dealing with foreign investment firms or companies which advertise the easy winnings to be had in Australian and German lotteries. Today, you not only have to know with whom you are dealing, but also where the deal is coming from.

Anyone working to combat fraud realizes that there will always be con artists and there will always be suckers. The development of highly sophisticated detection and prevention techniques will help authorities match wits with the con artist. But the ever increasing sophistication of international electronic networks, telecommunications systems, and international payment delivery points make fraud control vastly more difficult.

It is increasingly apparent that we will have to rely extensively on our own resources to combat international fraud. We cannot depend on our counterparts in other countries to do the job for us. This may mean that we have to impose greater restrictions or reporting requirements on the flow of funds out of the United States by individuals. Part of the problem lies with American investors who fall prey to the lure of tax free profits on foreign investments. They should assume part of the burden of enforcing measures to curtail offshore telemarketing and investment fraud.

This is not to say that we cannot expect cooperation from foreign law enforcement agencies and regulatory agencies. Where we can we should encourage better contacts and increased cooperation abroad.

In pursuing the matter of gemstone fraud directed at U.S. citizens by Canadian boiler rooms, Mr. Chairman, it was encouraging to see the extent of informal cooperation which existed between the two countries. We worked very closely with a Canadian trade organization, Jewellers Vigilance of Canada, to make contact with Canadian authorities and to report incidents to Canadian police. The Canadian police worked with federal law enforcement authorities here in Washington and sent representatives to Washington to meet with counterparts here.

When Metropolitan Toronto Police raided local gemstone operations in early April of this year, our National Fraud Information Center served as co-ordinator of victim complaints and as a resource for victims wanting information about possible restitution. All reports coming to our computer center were forwarded each day to Toronto, as well as to federal and state authorities. Jewellers Vigilance continued to assist by providing information to pass on to victims and by maintaining contact with local authorities. This kind of informal coordination served all parties.

The Congress should provide authority for more exchange of information and intelligence between U.S. civil authorities and their counterparts in foreign countries. For criminal offenses, federal law enforcement agencies, armed with extradition treaties, Interpol, and a presence in U.S. embassies abroad, have authority and resources to deal with violations of U.S. law. But, in the area of civil enforcement, that authority and those resources seem to be non-existent.

We also believe that the Subcommittee can play an important role in defining the duties and responsibilities of federal agencies to combat international fraud, as well as maintaining essential oversight activities over agencies involved in international fraud investigations.

In conclusion, Mr. Chairman, the National Consumers League would like to commend the Subcommittee for bringing this emerging problem to light. At a time when we are still consumed with the need to combat domestic fraud, it is difficult to turn our attention abroad. But, we believe that the fraud artist is moving offshore. Technology and telecommunications make it possible. Our current enforcement strategies make it desirable. And an uninformed consumer makes it extremely profitable. What range of solutions is available to combat this trend is only a guess. We hope that the Subcommittee will pursue this matter until solutions are found.

In the end, Mr. Chairman, it is the American citizen who can best combat the growing problem of international fraud. Many of the victims we interviewed were wealthy and could sustain the loss of \$5,000 or \$10,000. But others were buying Canadian gemstones or indium to provide money for their childrens' college education. Others were older Americans, looking for ways to keep up with increasing expenses on a fixed income. But, rich or poor, young or old, they should be more alert to the fact that international con men are out there ready to reap the benefits of an uninformed American public.

The consumer must become aware of electronic payment mechanisms—how they can be used to defraud. The consumer must become aware that bank accounts are not sacred repositories of hard earned money—how they can be cleaned out electronically with a simple set of access codes. And the consumer must become aware that American laws will not protect American funds abroad—how con artists use global networks to avoid detection and apprehension.

We hope these hearings today will send a message to Americans. We need not become xenophobic, but we must be aware that the person on the other end of the phone may not just be a con man—he may also be at the other end of the earth.

Thank you very much.

PREPARED STATEMENT OF LAURENCE A. URGENSON

Chairman and Members of the Subcommittee:

I am pleased to present testimony on behalf of the Department of Justice concerning the problem of international telemarketing fraud. Because telemarketing fraud is one of the special emphasis areas that the Department's Economic Crime Council has designated for economic crime law enforcement, the Department welcomes the opportunity to appear before you today.

To date, the Department has tended to concentrate its prosecutive resources upon telemarketing fraud cases that involve large-scale schemes which victimize U.S. consumers and are conducted entirely within the United States. However, our recent experience in prosecuting such cases, including cases arising out of the FBI's Operation Disconnect, has furnished information about several international aspects of telemarketing fraud that may be of interest to this Subcommittee.

First, as described in the testimony of FBI Deputy Assistant Director Fred Verinder, certain telemarketing fraud schemes, such as the sale of gemstones, are directed largely at U.S. citizens but are based and conducted in Canada. While telemarketing fraud operations located outside the United States could offer U.S. citizens many of the same types of products and services that their domestic counterparts have offered, Canadian gemstone "scams" are generally recognized as one of the more widely prevalent and lucrative international schemes for victimizing U.S. consumers.

Second, information obtained in some recent prosecutions indicates that we should not define the problem of international telemarketing fraud solely in terms of foreign victimization of U.S. consumers. Although we do not have precise statistical data on the general incidence of U.S. telemarketing firms which target citizens of other countries, some fraudulent telemarketers have admitted to law enforcement authorities that they have targeted Canadian consumers as well as U.S. consumers, and that they had had considerable success in Canada.

Third, the fact that a fraudulent telemarketing firm conducts its business from outside the United States does not mean that the United States will lack jurisdiction to prosecute for criminal violations of United States law. Whenever a fraudulent telemarketer outside the United States telephones a prospective victim in the United States to solicit a purchase or investment, that call may constitute a violation of the wire fraud statute, 18 U.S.C. § 1343, so long as the government can prove that the telephone call was "in interstate or foreign commerce." Similarly, whenever a fraudulent telemarketer outside the United States places a postcard, brochure, or other material in his country's mail for mail delivery to someone in the United States, that mailing may constitute a violation of the mail fraud statute, 18 U.S.C. § 1341. In addition, under certain circumstances, financial transactions involving the proceeds of mail or wire fraud violations, such as international wire transfer, may constitute violations of the money laundering statutes, 18 U.S.C. § 1956 and 1957.¹

Fourth, the Department and United States Attorneys' Offices are actively coordinating with other agencies on directing investigative and prosecutive resources at international telemarketing fraud. In investigating alleged violations of various Federal fraud statutes, United States Attorneys' Offices and litigating sections of the Department rely not only upon routine meetings between prosecutors and agents in particular investigations, but also upon more formal mechanisms for coordination and resolution of common interests and concerns.

One of these mechanisms is the task force concept. The term "task force" typically refers to a group of Federal prosecutors and agents who are dedicated to investigating and prosecuting a particular type of crime, such as financial institution fraud or telemarketing fraud, over an extended period of time. Task forces have often proved highly effective in white-collar crime investigations because they facilitate the development of expertise among the prosecutors and agents assigned to them, and foster efficiency by encouraging the setting of investigative priorities and the concentration of specialized resources on matters and cases warranting the highest priority. This is certainly true in the area of telemarketing fraud, as shown by the successes of the Telemarketing Fraud Task Force which operates out of the United States's Attorney's Office in San Diego.

Another mechanism, for matters requiring more general interagency coordination such as policy and resource commitments, is the interagency working group. At the local level, United States Attorneys' Offices have sometimes established working

¹ Under section 1957, for example, a violation may occur even if the financial transaction takes place wholly outside the United States, if the government can prove that the defendant is "a United States person," as defined in subsection 1957(d)(2), and that the financial transaction was "in or affecting interstate or foreign commerce." 18 U.S.C. § 1957(d)(2), (f)(1).

groups to address such matters as financial institution fraud, securities fraud, or other criminal activities of particular importance in that area. In addition, since 1984, the Department of Justice has made increasing use of the working group concept at the National level to improve coordination between agencies and facilitate effective enforcement activities on particular types of white collar crime.

Since December, 1984, when a national-level interagency Bank Fraud Working Group was established, the Department has encouraged and participated in the establishment of other national-level interagency Working Groups in the areas of health care fraud, insurance fraud, securities and commodities fraud, and telemarketing fraud. Since its formation in April, 1992, for example, the Telemarketing Fraud Working group has expanded its membership to include more than a dozen Federal departments and agencies,² as well as the National Association of Attorneys General and the North American Securities Administrators Association. These members, through the Working Group, have established a number of goals and priorities for more effective interagency cooperation and communication.

These goals and priorities include the enhancement and Expanded use of the NAAG/FTC Data Base on telemarketing fraud complaints and public enforcement actions; improvement of public awareness and education about telemarketing fraud; establishment of a liaison committee with private-sector organizations, including non-profit consumer groups; collection of information on the impact of the Federal Sentencing Guidelines on telemarketing fraud; and encouragement of proactive investigative techniques. Subcommittees of the Working Group are now in operation to pursue each of these goals and priorities.

As I am appearing before you this morning, the Telemarketing Fraud Working Group is holding one of its quarterly meetings in Washington. At that meeting, the Working Group has scheduled a roundtable discussion among its members on the subject of international telemarketing fraud. It is hoped that this discussion will give Working Group representatives a clearer understanding of the problems that their respective agencies face in dealing with telemarketing fraud on an international level, and perhaps encourage agency members to share information and ideas on how to overcome those problems more effectively.

Thank you for your interest in the Department's continuing efforts to combat international telemarketing fraud. I will be pleased to respond to any questions that the Subcommittee may have.

PREPARED STATEMENT OF CHRISTIAN S. WHITE

Mr. Chairman and Members of the Subcommittee: I am Christian S. White, Acting Director of the Bureau of Consumer Protection of the Federal Trade Commission. I appreciate this opportunity to appear before you today on behalf of the Federal Trade Commission to discuss the emerging international aspects of telemarketing fraud. The views expressed in this statement represent the views of the Commission. My responses to any questions you may have are my own and do not necessarily reflect the views of the Commission or any individual Commissioner.

Telemarketing fraud is a matter of serious concern to consumers and the Commission. Consumers lose between \$3 and \$40 billion each year to fraudulent telemarketers.¹ In response to this problem, the Federal Trade Commission continues to devote significant law enforcement and consumer education resources to the problem of fraudulent telemarketing.

Since the 1980's, the Federal Trade Commission has brought all available tools to bear on the war against telemarketing fraud. The Commission has filed over 110 Federal court actions against companies that had more than a billion dollars in estimated aggregate sales. In these cases, the Commission typically obtains injunctions against future fraudulent conduct and, when assets can be located, orders providing for redress to defrauded consumers. In addition to these civil law enforcement actions, the Commission works with Federal and state criminal law enforcement authorities to prosecute fraudulent telemarketers for violations of criminal law. As a

²These include (1) Federal criminal law enforcement agencies (i.e., the Department of Justice, the Federal Bureau of Investigation, the Internal Revenue Service, the Postal Inspection Service, and the United States Secret Service); (2) Federal regulatory agencies (i.e., the Commodity Futures Trading Commission, the Federal Communications Commission, the Federal Reserve Board, the Federal Trade Commission, the Office of the Comptroller of the Currency, and the Securities and Exchange Commission); and (3) other Federal departments and agencies (i.e., the Department of Commerce and the Office of Consumer Affairs).

¹House Committee on Government Operations, *The Scourge of Telemarketing Fraud: What Can Be Done Against It?* H.R. Rep. No. 421, 102d Cong., 1st Sess., at 7 (December 18, 1991).

result of these cooperative efforts, Federal and state authorities represent a powerful united front against these harmful practices.

Fraudulent telemarketers, who traditionally preyed on consumers nationwide from bases such as Florida and Southern California,² are beginning to "go global." The globalization of telemarketing fraud mirrors the globalization of the world economy, which has been spurred by technological advances in telecommunications and finance. Scam artists in one country can now talk with ease to victims in another and move the proceeds of their fraud from one country to another. Given these changes, the globalization of telemarketing fraud was probably inevitable, but the trend may well pose serious new challenges to the Commission's efforts to combat telemarketing fraud.

In the typical domestic telemarketing fraud case, the Commission investigates and brings civil action in Federal district court without notifying the telemarketer in advance. The Commission's initial goal is to halt the ongoing fraud by obtaining a temporary restraining order and a preliminary injunction halting the challenged conduct to prevent further injury to consumers during litigation over a permanent remedy. The Commission usually also asks the court to freeze the telemarketer's assets without prior notice to preserve them for ultimate consumer redress if the Commission ultimately is successful in the litigation.³ In many cases, the Commission also asks the court to appoint a receiver to marshal the telemarketer's assets and protect them from dissipation during the pendency of the action. At the end of the case, the court typically enters a permanent injunction against future fraudulent conduct. In particularly egregious cases, some telemarketers have been permanently banned from the telemarketing business, or have been required to post a hefty bond. Most orders require the telemarketer to pay monetary redress to injured consumers or, where circumstances make payment of redress to injured consumers difficult or impossible, to disgorge its ill-gotten gains. Final orders, whether entered following litigation or by consent of the defendants, are enforced through the court's contempt powers.

In the domestic context, the Commission has had significant success with these legal tools. The Commission has successfully used them not only against fraudulent telemarketers—the actual boilerrooms—but against individuals and entities that do not deal directly with consumers, such as list brokers, credit card "factors," and suppliers of travel certificates, whose behind-the-scenes participation in those schemes is essential to their success. The globalization of telemarketing fraud, however, creates problems that these tools were not designed to address.

Many telemarketers are now physically located in other countries and target American consumers. Recently, for example, the Commission and other consumer protection agencies have received many complaints from consumers about telemarketers located in Canada who fraudulently sell gems, stones and metals as investments. These foreign gemstone telemarketers use the same types of pitches and techniques as fraudulent domestic telemarketers of dubious investments. For example, telephone sales representatives use high pressure sales tactics to convince consumers to invest in gemstones and similar products, promising big profits with few risks. They often promise, in addition, that the products can be liquidated easily through the company's own "re-brokerage" services. Sometimes, the sales agents claim there is a new buyer for the gemstones or metals a consumer has already bought, but the consumer must pay additional money as a fee or commission or must buy additional investments before the first investments can be sold. The result is that consumers generally end up with investments worth only a small fraction of what they paid, just as in countless domestic-based telemarketing scams. Tens of millions of dollars have been lost to these firms. Canadian law enforcement authorities recently announced arrests in several of these cases.⁴

Some foreign fraudulent telemarketers appear to hide the fact that they are not based in the United States. Some of these firms use 800 numbers that connect United States consumers to boilerrooms located in Canada. Consumers are not likely to expect that calling an 800 number would connect them to a foreign country. Even consumers who understand that they are talking with someone in a foreign country may not understand the implications this may have on their rights, or on the ability of the United States government to investigate and redress fraudulent practices.

There are real barriers to investigating foreign telemarketers who victimize consumers in the United States. Gathering information about fraudulent telemarketers

² *Id.* at 10.

³ Courts have the power, under equitable principles of law, to freeze the assets of defendants who may be liable to pay consumer redress under Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b). *E.g.*, *FTC v. H.N. Singer Inc.*, 668 F.2d 1107 (9th Cir. 1982).

⁴ 50 Arrested in cut-rate jewelry scam, *Toronto Star*, June 3, 1993, at A3.

abroad can be difficult. Victims of foreign fraudulent telemarketers in the United States may not know much about the telemarketers that defrauded them. Sources of information that the Commission's staff normally turn to in a domestic investigation, such as former employees, local law enforcement agencies, and informers, are less accessible in foreign countries. Even if those sources were inclined to supply information, they are less likely to know of the Commission's existence, and the Commission's staff is unlikely to know who they are. Moreover, the Commission's ability to use compulsory process may be ineffective to compel the production of documents or sworn testimony of persons outside the United States.

There are other barriers to conducting investigations in foreign nations. Differences in foreign law can make it difficult to investigate conduct that takes place in foreign countries. Some nations affirmatively block cooperation with foreign government investigations conducted on their soil. Some impose criminal sanctions on its citizens who provide information to United States or other foreign law enforcement agencies. Others restrict their law enforcement agencies from sharing information with foreign governments. Moreover, conducting an investigation in a foreign country can be an expensive proposition, and United States government personnel posted abroad generally do not have the resources to assist us.

While the Commission is fully committed to appropriate cooperation with law enforcement agencies in other countries, the extent and nature of that cooperation are shaped by the statutory requirements imposed by our respective legislatures. For instance, our ability to provide information to foreign authorities is limited by the non-disclosure provisions of Section 21 of the Federal Trade Commission Act, 15 U.S.C. § 57b-2, which was enacted to preserve the confidentiality of sensitive information submitted to the Commission during the course of its investigations. This includes information such as the identity of informants, the identities of parties under investigation (who ultimately may not be charged), and legitimate business trade secrets. In some countries, similar statutes are more restrictive than our own; in others, they are less restrictive.

If the Commission were to surmount these barriers and bring a civil action against a fraudulent foreign telemarketer doing business in the United States, further challenges would arise. First, if the telemarketer remains abroad, the United States courts cannot effectively compel its submission to this country's jurisdiction even if valid service of process can be obtained. Second, even assuming that an order is issued *in absentia*, the Commission likely would encounter difficulty in enforcing such an order against persons or assets located outside the United States. If the individuals or corporations under order are physically present in the United States, a violation of a court order prohibiting activities can be addressed with contempt sanctions. If they are outside of the United States, however, a Federal court injunction in a civil case may well not be enforceable in foreign courts, and there may be nothing to deter the defendants from violating the order.

The Commission has been grappling for some time with the related problem of fraudulent transfers of assets from United States telemarketers to foreign countries. The problem typically arises in several contexts. When United States courts impose orders freezing assets to preserve telemarketers' funds for future consumer redress, significant problems arise when the assets are located outside of the United States. If the defendants are located in the United States, the court can order them to transfer the assets back to the United States, or to face incarceration until its order is obeyed. But if they are outside the United States, an asset-freeze order by a United States court usually will not be enforceable as to assets located abroad. If a foreign court will not enforce asset-freeze orders as to money held in foreign banks, there is nothing to prevent the telemarketer from hiding or dissipating assets.

A concrete example of the complex interplay of these issues can be found in a recent Commission case.⁵ The Commission's attorneys, after obtaining an asset freeze from a Federal district court in Utah and serving the defendant, discovered assets in a Canadian bank and sent copies of the asset-freeze order to the bank. At the same time, the court ordered the defendant to execute documents necessary to return the funds to the United States. Although the defendant executed the documents directing the Canadian bank to transfer the Canadian funds to an account in the United States which would be subject to the asset freeze, he also clandestinely told the Canadian bank to disregard these documents. The bank then commenced an action in Canada to determine who should have custody of the assets.⁶ When the American court threatened to hold the defendant in contempt until the money was returned, the defendant and the bank agreed to a procedure by which

⁵ *FTC v. U.S. Hotline, et al.*, No. 93-C-444B (D. Utah, filed May 10, 1993).

⁶ *In re Interpleader Application on behalf of the Royal Bank of Canada*, Action 9301-09283 (Q.B. Alberta, Jud. Dist. Calgary, filed June 14, 1993).

the funds were returned to the United States through the Canadian court. The assets were thus finally recovered after a somewhat tangled journey through two countries' court systems.

Locating assets hidden abroad poses related problems. It is difficult for civil law enforcement authorities like the FTC to find telemarketers' assets when they are hidden in foreign countries. The uncertain ability of the Commission to compel information from foreign sources hampers its ability to obtain information about assets that have been secreted abroad.⁷ In the absence of international agreements that would allow access to this type of information in the face of foreign bank secrecy laws, it is virtually impossible for the Commission to obtain significant and timely information about telemarketers' assets overseas.

These obstacles notwithstanding, cooperation with foreign law enforcement authorities sometimes yields success. For example, one United States defendant in a telemarketing fraud case violated an asset freeze by withdrawing \$1.2 million from frozen bank accounts and fleeing overseas.⁸ The Commission obtained an order that he show cause why he should not be held in criminal contempt for his actions. When he failed to appear, the court issued an arrest warrant. The defendant ultimately settled in Canada. Canadian customs officials learned of the arrest warrant, which had been entered in law enforcement databases, and then learned that he had lied on his application for entry into Canada. Canada deported him to the United States under circumstances that permitted him to be arrested on arrival. He was then successfully prosecuted and jailed for his contempt of the Federal court's asset-freeze order.

United States agencies combating international telemarketing fraud also cooperate with foreign authorities on the criminal front. If a foreign-based telemarketer is criminally indicted for wire or mail fraud in the United States, extradition proceedings may be instituted to bring the responsible parties to the United States to face criminal charges. This procedure is not available to the Commission, which has only civil law enforcement authority. Nevertheless, the Commission intends to continue to make every effort to encourage the criminal prosecution and extradition of fraudulent foreign telemarketers by providing all possible assistance to the appropriate criminal agencies.

Notwithstanding the difficult problems caused by the globalization of telemarketing fraud, the Commission has been working actively to alert consumers in the United States to the dangers of dealing with foreign telemarketers. For example, in the last year the Commission issued a "consumer alert" concerning the Canadian gemstone telemarketers, warning consumers to use extreme caution when presented with such investment offerings. The staff of the Commission currently is preparing a consumer alert concerning Canadian telemarketers who sell the metal indium as an investment. Consumer information alerts like these are distributed to at least 10,000 key information sources throughout the United States, including state and local government offices, national consumer and business organizations, Better Business Bureaus, and universities.⁹

The United States is not alone in recognizing the globalization of telemarketing fraud, nor is it alone in the desire to respond to it. In 1992, FTC Commissioner Roscoe B. Starek, III, participated in the founding of the International Marketing Supervision Network, an international body of criminal and civil law enforcement agencies having responsibilities to protect consumers against fraud. The members include the Commission's counterpart agencies from European nations and the European Community, Canada, Australia, New Zealand, Mexico, and Japan. According to the Memorandum establishing the Network, among its purposes is to "co-operate at an operating level in preventing marketing malpractices as they arise. Co-operation will be on an informal basis. Participants should use their best endeavors to help each other, subject to national law and practice and availability of resources."¹⁰ Given the Network's informal nature, it does not give its participants any rights or impose any obligations on them. It does, however, represent an excellent forum for

⁷ While not of direct use to the Commission's law enforcement efforts, the United States has a treaty with Canada regarding criminal offenses, whereby each will assist the other in, among other things, gathering information from sources such as foreign banks and foreign law enforcement authorities. Treaty Between the Government of the United States of America and the Government of Canada on Mutual Legal Assistance in Criminal Matters, March 18, 1985, 24 I.L.M. 1092. Comparable agreements exist with certain other countries.

⁸ *FTC v. American National Cellular, Inc., et al.*, No. 85-7375 WJR (C.D. Cal., filed Nov. 12, 1985).

⁹ Approximately 28,000 copies of the Canadian gemstones alert have been distributed to date. A copy is attached.

¹⁰ Memorandum on the Establishment and Operation of the International Marketing Supervision Network ¶ 5, October 27, 1992.

the countries that experience law enforcement difficulties across international lines to communicate with each other. The Commission hopes that the Network will serve as a foundation for future cooperation.

The Federal Trade Commission is committed to combating the telemarketing fraud that preys on consumers in the United States in all its guises, whether domestic or international. On behalf of the Commission, I thank the Committee for the opportunity to present the Commission's views on this troubling problem.

PREPARED STATEMENT OF FRED B. VERINDER

Good morning Mr. Chairman. I am pleased to appear today on behalf of the FBI and provide you with some information related to international fraud matters, particularly international telemarketing fraud.

As you are well aware, the global business environment has undergone dramatic changes in recent years. These changes are continuing. Recent developments in the former Soviet Union and former eastern block countries as well as the rise in Asian economic influence have all contributed to change the face of global economics. This changing environment has provided many new avenues of opportunity for the ever interested con-artist. A limited number of fraud schemes have always been conducted in the international arena; but in recent years, the FBI has detected a noticeable rise in the number of these cases.

Telemarketing fraud is a serious and costly crime problem. Individuals knowledgeable of the industry estimate that illegal telemarketing costs the American public up to \$40 billion per year. The personal consequences to the victims of these frauds can be devastating. As you know, some victims have lost everything they have, all in pursuit of the telemarketer's tantalizing offer. With an additional threat from off-shore telemarketers, this problem can be expected to worsen.

The FBI defines telemarketing fraud as those crimes which rely on use of the telephone to contact the victim during which time the product or service is materially misrepresented. With the availability of reliable telecommunication equipment including facsimile machines, and computers, as well as accessible international banking and shipping facilities, telemarketing fraud is well suited for inclusion within the international fraud arena.

As you may know, "operation disconnect", which was surfaced earlier this year, was an effort on the part of the FBI to use undercover FBI agents to penetrate the network of illegal telemarketers operating in the U.S. To date, over 300 individuals have been charged with participating in telemarketing fraud scams; 120 have thus far been convicted. The investigation and prosecution of other telemarketers identified through "operation disconnect" will continue. As a result of this investigation, much information has been obtained about illegal telemarketers which should prove valuable for both investigators and prosecutors for some time to come.

International telemarketing fraud, much like its domestic counterpart, can be one of the more difficult white-collar crimes to investigate. The typical owner/operator of a telemarketing firm uses multiple aliases, telephones, mail drops, and at times, different business locations. They can change their method of solicitation, product line, and other recognizable traits over night. Their operations are mobile and their schemes complex. To complicate the matter further, because of embarrassment and complacency on the part of many victims, telemarketing fraud, particularly international telemarketing fraud, is a highly under-reported crime problem. By moving the telemarketing operation off-shore, the telemarketer further complicates the investigative process by introducing more investigative hurdles that must be overcome by the law enforcement entity.

A common international telemarketing scheme affecting U.S. consumers is the Canadian gemstone telemarketing scam. These telemarketing operations are primarily based in Toronto, Canada, and contact victims throughout the United States. Typically, the telemarketers contact potential investors by telephone and advise them of an opportunity to invest in precious gemstones. The stones typically cost a few thousand dollars each and are advertised to be worth considerably more. The scam continues, sometimes over many years, during which time the consumer is recontacted over and over, each time being asked to purchase additional gemstones. The scheme is successful in part because sales personnel require that the stones remain sealed in their original packaging; thereby, presenting the victim from obtaining an independent appraisal of the stones. Some U.S. consumers are known to have lost hundreds of thousands of dollars through their contact over many years with gemstone telemarketers. On March 5, 1993, a Canadian law enforcement investigation resulted in the arrest of 68 individuals in Toronto, Canada, who were suspected of operating gemstone telemarketing scams. A number of these scams targeted Amer-

ican consumers. We are continuing to work with Canadian authorities to address this problem.

Another example of an international telemarketing fraud scheme involves a telemarketing operation run by U.S. con-artists, defrauding U.S. citizens, while having their business located in Europe. Working with other con-artists in Europe, answering machines were set up in several European locations, to include Paris and the Isle of Mann. The con-artists would then mail U.S. citizens, doctors in particular, investment information on everything from commodities to oil wells. These investments offered not only a tax shelter for investors, but promised a high rate of return on the investment as well. Not a single investor identified in this case made money. In fact, one individual lost over half-a-million dollars responding to this particular scam. This matter is currently under investigation and is being addressed by both the Securities and Exchange Commission and the FBI.

In order to more efficiently and effectively address international fraud of all types, a number of initiatives have been put in effect. One such example is the Caribbean Financial Crimes Task Force. This task force, expected to be operational by the end of this year, is an effort on the part of the FBI and British police to investigate and assist in the prosecution of financial crimes affecting the United States, the United Kingdom, and the British Caribbean dependent territories to include Anguilla, Montserrat, the British Virgin Islands, the Turk and Caicos Islands, and the Cayman Islands. The task force will initially be comprised of two FBI agents and two British police officers who will operate from common space in the Miami, Florida area and be managed by a steering committee comprised of officials from the British Embassy, the Department of Justice, and the FBI.

Also, pursuant to a joint agreement with the British government, the FBI has assigned an FBI agent to the Serious Fraud Office (SFO), in London, England on a 6-month rotational basis. The SFO was established by the British government to address the most serious and complex fraud matters affecting Britain. Through this assignment, the FBI has been able to more effectively coordinate investigations involving international crimes affecting both the United States and Britain as well as other countries.

In an attempt to coordinate U.S. and Canadian law enforcement efforts directed at the Canadian gemstone fraud crime problem, the FBI is in the process of organizing a conference at the FBI Academy in Quantico, Virginia, to be attended by appropriate U.S. and Canadian enforcement agencies. The FBI believes that a coordinated effort on the part of agencies such as the Royal Canadian Mounted Police, the Toronto Metropolitan Police Department, the Federal Trade Commission, the U.S. Postal Inspection Service, and the FBI, could substantially curtail this particular crime problem.

In addition to addressing the international fraud crime problem from an enforcement perspective, through coordination with the U.S. State Department, the FBI has participated in international training seminars hosted by a number of interested countries. During the past 2 years, the FBI has provided training in the areas of general economic crime, money laundering, and organized crime to the law enforcement entities in Poland, Hungary, and Czechoslovakia. Representatives of Ireland, the Serious Fraud Office in London, and the City of London Police Department have also attended insurance fraud training conducted by the FBI. Also, representatives of a number of foreign countries have attended an international computer crimes conference hosted by the FBI. This was the first such conference addressing computer crime. It is hoped that these efforts and others will assist law enforcement agencies around the world in addressing crime problems such as those we are discussing here today.

The success of our international efforts ultimately depend upon the ability to obtain and secure evidence from the countries where the evidence is located. Obtaining evidence from foreign countries can be quite difficult and time consuming. To expedite this process, Mutual Legal Assistance Treaties, or MLATs, have been executed. Currently the United States has executed 12 such treaties covering 16 different countries. Additional MLATs are currently being negotiated with other countries. In the absence of MLATs, letters rogatory are the customary method of obtaining evidence from abroad. Letters rogatory is an extremely time consuming process generally lasting from 6 to 8 months. MLAT requests are generally answered within 2 months.

Finally, on more of a local note, the FBI is enhancing its liaison efforts to better coordinate national initiatives addressing various crime problems such as international telemarketing fraud. An example of such an effort is the FBI's participation on the Department of Justice National Telemarketing Fraud Working Group. Through this working group a forum has been established to address the telemarketing fraud crime problem from a national perspective. The FBI is also fi-

nalizing plans to participate in the National Association of Attorneys General—Federal Trade Commission automated telemarketing fraud database. I anticipate that we will be operational within the next 60 days.

In spite of all the attention given to combatting telemarketing fraud by U.S. law enforcement authorities, it continues to plague the American consumer. The FBI will continue to pursue fraudulent domestic and international telemarketers in co-operation with foreign law enforcement authorities, using both traditional and proactive undercover techniques.

That concludes my statement Mr. Chairman. I would be happy to answer any questions you may have.

PREPARED STATEMENT OF MICHAEL STENGER

Mr. Chairman, thank you for the opportunity to address this committee today on the subject of International Telemarketing Fraud. My name is Michael Stenger and I am representing the United States Secret Service today in my capacity as the Assistant Special Agent in charge of our Financial Crimes Division, which has oversight responsibility for investigations relating to a variety of offenses, one of which is telemarketing fraud.

The United States Secret Service began investigating telemarketing fraud schemes as a result of the Comprehensive Crime Control Act of 1984. Among the laws enacted under this legislation is the Access Device Fraud Act, Title 18, USC Section 1029 (fraud and related activity in connection with access devices). Under this law, an access device is defined as "any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any thing of value, or that can be used to initiate a transfer of funds." The unauthorized use of credit card account numbers, demand draft account numbers, or any other number which is an access device, is the key element for the Secret Service in fraudulent telemarketing investigations.

The Secret Service also investigates these offenses under Title 18, USC Section 1344. This statute essentially makes it a Federal crime for anyone to attempt, or execute, any scheme or artifice to defraud a financial institution. The Secret Service began to specifically apply this law to the problem of telemarketing fraud in 1990 when Congress enacted Public Law 101-509. This law gave the Secret Service concurrent jurisdiction with the Department of Justice to "conduct or perform any kind of investigation, civil or criminal, related to fraud or other unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation." Prosecution of fraudulent telemarketers remains a challenging aspect of our investigative mission. Nevertheless, the access device and bank fraud criminal statutes have become an effective tool in attacking the many varieties of telemarketing fraud schemes.

Unquestionably, great progress has been made over the last few years in fighting this crime which may often target the most vulnerable in our society, i.e., the small business owner, the elderly, as well as the Nation's financial institutions and the American economy itself. As a result of the diligent efforts on the part of congressional committees similar to the one which I am testifying before today, various new strategies have been initiated. First, a telemarketing fraud working group has been formed to better coordinate law enforcement efforts in response to increased telemarketing fraud. The Secret Service is an active member in this group which meets regularly and consists of a variety of Federal agencies and a number of representatives from the Nation's offices of State Attorneys General. Second, the National Association of Attorneys General and the Federal Trade Commission telemarketing complaint system database has become operational and has quickly proven to be a great aid to civil and criminal telemarketing investigations. Again, the Secret Service is an active member of this database group, providing agency enforcement action data relating to investigations initiated against suspects of telemarketing fraud. Finally, a greater sense of cooperation among various agencies has been fostered as a result of the attention being given to the telemarketing problem. Formal and informal investigative task forces have developed around the country to combat this crime. The Secret Service welcomes opportunities to employ the task force concept when resources permit.

With examples of significant progress as I have just described, it may be difficult to comprehend how telemarketing fraud continues to escalate dramatically. However, by all official accounts, it has become a growth industry in this nation. The Secret Service response to this unending escalation is to focus its investigative effort where we believe the "root structure" of fraudulent telemarketing exists: the broker.

In the business, a broker, also known as the middleman, locates merchants who provide the "factoring" mechanism very much needed for a fraud scheme to be successful. While closing "boiler room" and fulfillment center operations is important, the Secret Service believes the "laundering" of credit card sales drafts represents the most significant area to attack the overall problem. As "laundering" proliferates, so does telemarketing fraud.

The scheme works in this fashion. Fraudulent telemarketers or their brokers approach legitimate business men and women and ask them to process (launder) their credit card sales drafts or accept account numbers to be key-entered into their EDC (electronic data capture) terminal for electronic processing directly to the bank. They tell the merchants various stories to explain why the banks have not given them an account or will not let them process transactions over a certain amount if they do have an account. The merchant is promised a percentage of gross receipts for accepting the drafts or account numbers and laundering them through his or her merchant account. By the time the chargebacks reach the merchant bank, the broker has fled and relocated. With too little in the laundering merchant's account to cover the chargebacks, the bank sustains the loss.

An investigative approach utilized by the Secret Service in telemarketing fraud investigations is to target the use of stolen long-distance access codes at the boiler room location. Possession of stolen access codes is clearly a violation of Title 18, USC Section 1029. Long distance service is one of the major expenses incurred in telemarketing operations. The use of stolen codes may sometimes be the most obvious and easiest violation to prove in a fraudulent telemarketing operation.

Traditionally, telemarketers have found it relatively easy to operate without much law enforcement interference because they have targeted people living outside the state where the phone banks and offices were located. Additionally, the sales drafts generated from the operation have been laundered through a bank located outside the state. This has had the effect of making it more difficult to immediately identify the problem, as well as to make the prosecution more difficult due to venue and case management problems.

Recent Secret Service investigations have developed information which indicates that many fraudulent telemarketers are now moving at least part of their operation offshore to such countries as Canada, Mexico, Australia, and many of the Caribbean Islands; in particular, Aruba, Antigua, and the Cayman Islands. Of course, the American consumer is still being victimized under this scheme. An analysis of this new and growing enterprise suggests the following reasons for this phenomenon:

- 1) The increasing sophistication of those involved in telemarketing fraud. Telemarketers are recognizing that moving their operation offshore helps to avoid detection. Moreover, through the use of advanced telecommunications and modern technological equipment, such as facsimile machines and computers, the offshore telemarketing operation can be managed just as efficiently.

- 2) Congressional interest, and subsequent recommendations, have led to a more concerted effort in the law enforcement community to attack the problem of telemarketing fraud utilizing more innovative strategies. The task force concept, the telemarketing fraud data base, the telemarketing fraud working group, and the use of state prosecutions based on victim venue are all new initiatives which appear to be having an impact. Telemarketers are simply being more aggressively pursued by law enforcement agencies in the United States as awareness and understanding of the problem have been highlighted over the past few years.

- 3) The expansion of asset forfeiture enforcement activities has clearly led telemarketers to offshore banks to launder the proceeds of their criminal enterprise. With enactment of Public Law 102-393 on October 6, 1992, the Secret Service received expanded authority to seize and forfeit property for certain violations within our investigative jurisdiction. Asset forfeiture for the Secret Service, as well as all other law enforcement agencies, has been an invaluable tool used to make telemarketing fraud as unattractive as possible. For this reason, however, telemarketers are moving their illicit revenue to offshore banks and are taking advantage of United States regulations relating to reporting requirements for international wire transfer of funds.

- 4) The lack of interest on the part of some foreign law enforcement authorities, along with indulgent banking laws and regulations, makes it very difficult, if not impossible, for United States law enforcement to conduct appropriate investigations when all or part of the telemarketing operation is overseas. A simple records check at an offshore bank to trace a transfer of funds can be complicated, time consuming, and often impossible.

Indeed, Mr. Chairman, great strides have been made in these types of investigations over the past few years. But the telemarketers' recent move to utilize offshore sites for their operation has added yet another negative factor into the equation for

law enforcement to consider. Solutions to this particular problem may be difficult to achieve. However, until we find ways to keep telemarketers from factoring and laundering their proceeds or conducting other telemarketing activities overseas, the fraud problem will continue as a growth industry.

Mr. Chairman, in closing, I would like to make one final comment concerning individual consumers who report being victimized in a telemarketing scam. Certain of these victims receive an obviously inferior product while others receive no benefit whatsoever. While telemarketers capitalize on a variety of payment methods, credit cards and other access devices are the predominant source of payment. The Secret Service continues to aggressively attack the "root structure" of telemarketing schemes. However, it remains necessary that individual consumer fraud complaints be addressed by other means. Regulatory agencies, such as the Federal Trade Commission, have been doing a splendid job in this area. Each is better suited to assist consumers with their respective complaints. Obviously, if complaints against a particular target begin to multiply, and a substantial case is developing, the Secret Service will respond appropriately.

A key element for the Secret Service in the fight against telemarketing fraud is raising public awareness and educating consumers on how to distinguish fraudulent schemes from legitimate businesses, charities, and promotions. The Secret Service encourages its agents to maintain regular contact with community groups and to provide them the most recent crime prevention information available. Consumer education must continue to be a priority for all agencies.

That concludes my prepared remarks. I will be happy to answer any questions that you or members of your committee may have.

SAFE INVESTING

- DON'T BUY INVESTMENTS OVER THE PHONE
- DEMAND A PROSPECTUS
- DO HOMEWORK

[Read the prospectus; if you don't understand have someone else read it before you give money]

- CHECK BROKER'S RECORD

[Call the National Association of Securities Dealers or call the North American Securities Administrators Association at 202-737-0900 who can refer you to the State official in your home State]

- DEFINE YOUR OWN INVESTMENT OBJECTIVES

[i.e., low risk; steady income; get the broker to sign a statement agreeing with you on these objectives]

- DON'T GIVE CONTROL

[Don't give the broker complete control -- never sign a paper that gives the broker the right to buy and sell without your approval]

- READ STATEMENTS

[Call your broker if you do not understand the statement]

NASAA

INVESTOR BULLETIN

HOW OLDER AMERICANS CAN AVOID INVESTMENT FRAUD AND ABUSE

Older Americans are the No. 1 target of investment con artists. Additionally, stockbrokers and financial planners who engage in abusive practices often seek out the elderly. The files of state securities agencies are filled with tragic examples of senior citizens who have been cheated out of savings, windfall insurance payments and even the equity in their homes. Fortunately, such victimization can be avoided by following 10 self-defense tips developed for older Americans by the North American Securities Administrators Association (NASAA), which, in the U.S., is the national voice of the 50 state securities agencies responsible for investor protection at the grassroots level.

1. *Don't be a "courtesy victim."* Older Americans are of the generation that was taught to be courteous at all times to phone callers, as well as people who visit them at home. Con artists will not hesitate to exploit the "good manners" of a potential victim. Remember that a stranger who calls and asks for your money is to be regarded with the utmost caution. You are under absolutely no obligation to stay on the telephone with a stranger who wants your money. In these circumstances, it is not impolite to explain that you are not interested and hang up the phone. Save your good manners for friends and family members, not swindlers!
2. *Check out strangers touting "strange" deals.* Trusting strangers is a mistake that all too many older Americans make when it comes to their personal finances. Say "no" to any investment professional or con artist who presses you to make an immediate decision, giving you no opportunity to check out the salesperson, firm and the investment opportunity itself. Extensive background information on investment salespeople and firms is available from the Central Registration Depository (CRD) files available from your state securities agency (call NASAA at 202/737-0900 for the number) or the National Association of Securities Dealers (1-800/289-9999). Almost all investment opportunities must be registered for sale in the state in which you live. Your state securities agency can tell you if the investment opportunity is properly registered. Before you part with your hard-earned savings, get written information about the investment opportunity, review it carefully and make sure that you understand all of the risks involved.

A favorite tactic of telemarketing con artists is to develop a false bond of friendship with older Americans. Swindlers know that many senior citizens are eager to have someone to talk to on the phone ... even if that someone is a complete stranger. If you are dealing in person with a stockbroker or financial planner, do not be swayed by offers of unrelated advice and assistance that are merely efforts to develop a sense of friendship and even dependency. If you are lonely and in need of companionship, don't make the mistake of seeking it from someone whose only real interest is to get his or her hands on your money.

3. *Always stay in charge of your money.* A stockbroker, financial planner or telemarketing con artist who wants your money will be more than happy to assure you that he or she can handle everything, thereby relieving you of the need to watch over and protect your nest egg. Beware of any financial professional who suggests putting your money into something you don't understand or who urges that you leave everything in his or her hands. Constant vigilance is a necessary part of being an investor. If you understand little about the world of investments, take the time to educate yourself or involve a family member or a professional, such as your banker, before trusting a stranger who wants you to turn over your money and then sit back and wait for results.
4. *Never judge a person's integrity by how they "sound."* All too many older Americans who get wiped out by con artists later explain that the swindler "sounded like such a nice young man (or woman)." Successful con artists sound extremely professional and have the ability to make even the flimsiest investment deal sound as safe and sound as putting money in the bank. Some swindlers combine professional-sounding sales pitches with extremely polite manners, knowing that many older Americans are likely to equate good manners with personal integrity. Remember that the sound of a voice (particularly on the phone) has no bearing on the soundness of an investment opportunity.
5. *Watch out for salespeople who prey on your fears.* Con artists know that many older Americans worry that they will either outlive their savings or see all of their financial resources vanish overnight as the result of a catastrophic event, such as a costly hospitalization. As a result, it is common for swindlers and abusive salespeople to pitch their schemes as a way for older Americans to build up their life savings to the point where such fears are no longer necessary. Remember that fear and greed can cloud your good judgment and leave you in a much worse financial posture. An investment that is right for you will make sense because you understand it and feel comfortable with the degree of risk involved.
6. *Exercise particular caution if you are an older woman with no experience handling money.* Ask a con artist to describe his ideal victim and you are likely to hear the following two words: "elderly widow." Sadly, many women who are now in their retirement years often received in their youth little or no education about how to handle money. Women of this generation often relied on their husbands to handle most or all major

money decisions. As a result, older women (particularly those who have received windfall insurance payments in the wake of the death of a spouse) are prime targets for con artists. Elderly women who are on their own and have little know-how about handling money should always seek the advice of family members or a disinterested professional before deciding what to do with their savings. One excellent resource available nationwide is the Women's Financial Information Program at the American Association of Retired Persons (AARP). For more information, call (202)434-6030, or write "Women's Financial Information Program," AARP, Consumer Affairs, 601 E Street, NW, Washington DC 20049.


7. Monitor your investments and ask tough questions. Too many older Americans not only trust unscrupulous investment professionals and outright con artists to make initial financial decisions for them, but compound their error by failing to keep an eye on the progress of the investment. Insist on regular written and oral reports. Look for signs of excessive or unauthorized trading of your funds. Do not be swayed by assurances that such practices are routine or in your best interests. Do not permit a false sense of friendship or trust keep you from demanding a return of your savings. When you suspect that something is amiss and get unsatisfactory explanations, call your state securities agency and make a complaint.
8. Look for trouble retrieving your principal or cashing out profits. Many older Americans have little ongoing need for invested funds, while others need returns that are paid out to them regularly in order to supplement limited incomes. If a stockbroker, financial planner or other individual with whom you have invested stalls you when you want to pull out your principal or even just profits, you may have uncovered someone who wants to cheat you. Since unscrupulous investment promoters pocket the funds of their victims, they often go to great lengths to explain why an investor's savings are not readily accessible. In many cases, they will pressure the investor to "roll over" non-existent "profits" into new and even more alluring investments, thus further delaying the point at which the fraud will be uncovered. If you are not investing in a vehicle with a fixed term, such as a bond, you should be able to receive your funds or profits within a reasonable amount of time.
9. Don't let embarrassment or fear keep you from reporting investment fraud or abuse. Older Americans who fail to report that they have been victimized in financial schemes often hesitate out of embarrassment or the fear that they will be judged incapable of handling their own affairs. Some senior citizens have indicated that they fear that their victimization will be viewed as grounds for forced institutionalization in a nursing home or other facility. Recognize that con artists know about such sensitivities and, in fact, even count on these fears preventing or delaying the point at which authorities are notified of a scam. While it is true that most money lost to investment fraud is rarely recovered beyond pennies on the dollar, there also are many cases in which older Americans who recognize early on that they have been misled about an investment are then able to recover some or all of their funds by being a "squeaky wheel." A good resource for older Americans who fear that they have been victimized

is the securities agency in the state in which they live. For the telephone number and address of your state securities agency, contact NASAA at 202/737-0900.

10. Beware of "reload" scams. Younger Americans who are ripped off by swindlers are fortunate to the extent that they have the opportunity to pick themselves up and restore some or all of their losses through new earnings. However, most older Americans are dealing with a finite amount of money that is unlikely to be replenished in the event of fraud or abuse. The result is a panic that is well known to con artists, who have developed schemes to take a "second bite" out of senior citizens who already have been victimized. Faced with a loss of funds, some senior citizens will go along with another scheme (allowing themselves to, in effect, be reloaded) in which the con artists promises to make good on the original funds that were lost ... and possibly even generate new returns beyond those originally promised. Though the desire here to make up lost financial ground is understandable, all too often the result is that unwary senior citizens lose whatever savings they have left in the wake of the initial scam.

*Additional quantities of this document
are available at no cost
by calling 202/737-0900.*

*Or write:
"Older Americans and Investment Fraud,"
North American Securities Administrators Association
One Massachusetts Avenue NW, Suite 310
Washington DC 20001*



3 9999 05982 961 2


WHITEHALL METALS GROUP INC.

Telephone: (416) 633-7744 • Fax: (416) 633-1090

UNITED STATES: 300 Pearl Street, Buffalo, N.Y. 14202

CANADA: 265 Rimrock Road, Suite 205, North York, Ontario M3J 3C6

UNITED KINGDOM: 108 Bond Street, London W1Y 9AA

Client No.

GQ 6011

Transaction Date

March 2, 1993

Mr. Ronald Guttman

Country Grocery

23 C Water St.

Guilford, CT 06437

CONFIRMATION OF PURCHASE

If this confirmation is not in all respects in accordance with your understanding, please notify us immediately.

Bought	Description	Price	Net Amount
20 oz.	GERMANIUM 99.9999%	\$383.00 per oz.	\$7660.00

We wish to thank you for your valued order for which payment is due upon receipt of this invoice.

Sub Total	\$7660.00
Shipping & Handling	45.00
Total amount payable in U.S. Dollars	\$7705.00

THE GROSS AMOUNT DUE CAN BE PAID BY ONE OF THE FOLLOWING METHODS:

- By personal check, company check or bank draft made payable to **WHITEHALL METALS GROUP INC.** and forwarded by mail in the enclosed envelope. Please make certain you **return the appropriate invoice copy with your payment.**
- By bank transfer (wire transfer) to the **ROYAL BANK OF CANADA, Sheppard Centre Branch, North York, Ontario, Canada; Transit #6682 for credit to WHITEHALL METALS GROUP INC., account #400-188-9.** Please make certain your name and client number are noted

CONDITIONS OF SALE

- * We reserve the right to rescind or cancel any order at our discretion if in our opinion payment has not been made within a reasonable length of time
- All metals will be delivered with a certificate of analysis. Metals delivered will conform to International Standards of Grading
- All metals will be delivered by insured carrier
- Whitehall Metals Group Inc., its subsidiaries, affiliates and their respective officers, directors, consultants, employees, agents and suppliers may have in house positions in metals referred to herein and may act as a principal or as an agent of its clients to buy or sell from such positions. **WHITEHALL METALS GROUP INC. IS NOT AN EXCHANGE.** When Whitehall Metals Group Inc. acts as a principal, it buys and sells on its own behalf and pursuant to its stated policy invests at its own risk in accordance with the recommendations it makes to its various clients and readers. In accordance with such recommendations Whitehall Metals Group Inc. quotes a selling price, asked price and a price at which Whitehall Metals Group Inc. will buy (bid price). Whitehall Metals Group Inc. reserves the right to change its prices and its spread (being the difference between the Whitehall Metals Group Inc. bid and asked prices) prospectively at any time. Whitehall Metals Group Inc. may, in any transaction, including the sale or purchase of metals from the in house accounts of Whitehall Metals Group Inc. to and from its various clients both individual and institutional, make profits and/or suffer losses. Such profits and/or losses are not attributable in any manner whatsoever to the current brokerage commission charged to the clients of Whitehall Metals Group Inc. Current brokerage commission will be charged when Whitehall Metals Group Inc. acts as an agent in a transaction carried out for the sale or purchase of metals to and/or from the individual and/or institutional clients of Whitehall Metals Group Inc. Consultation with ones financial advisor is recommended as this acquisition may not be appropriate for all personal financial situations
- No order shall be binding upon Whitehall Metals Group Inc. unless a written confirmation of purchase is received by the buyer
- The metals will be delivered in a reasonable time upon receipt by Whitehall Metals Group Inc. of a bank draft, credit facility or if payment is made by check, as soon as the buyer's check is cleared
- Any representations, oral or otherwise, not contained in the written literature, sales materials and forms provided by Whitehall Metals Group Inc. are strictly prohibited. Buyer's should rely only on said literature and materials when making a metals acquisition
- Refinery prices may differ from sale prices
- 30 Day Money Back Guarantee**
If the metals supplied are not as specified above, you must return same and your money will be refunded in full

CLIENT'S COPY

Certificate A 1306

Certificate A 1306

Certificate of Analysis

GERMANIUM

MINIMUM WEIGHT: 2 TROY OZ.

PURITY: 99.9999

LABORATORY REPORT:

ELEMENT	PARTS PER MILLION (MAXIMUM)	PARTS PER MILLION (MINIMUM)
OXYGEN	0.1	
BORON	0.01	0.002
SODIUM	0.2	0.06
MAGNESIUM	0.3	0.1
ALUMINUM	0.03	0.01
SILICON	0.3	0.1
PHOSPHORUS	0.02	0.008
SULPHUR	0.1	0.04
POTASSIUM	0.1	0.05
CALCIUM	0.03	0.
CHROMIUM	0.0302	
MANGANESE	0.01	0.008
IRON	0.05	0.04
NICKLE	0.02	0.02
COPPER	0.01	0.01

 LOT NO.: Bar/Ingot Specified DATE: March 22, 1993
BASED ON INTERNATIONAL STANDARDS OF GRADING

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